

AMENDED IN ASSEMBLY AUGUST 11, 2016

AMENDED IN SENATE APRIL 27, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 420

Introduced by Senator Huff

(Coauthors: Senators Bates, Block, Runner, and Vidak)

(Coauthors: Assembly Members Bonta, Olsen, and Waldron)

February 25, 2015

An act to amend Section 647 of the Penal Code, relating to prostitution.

LEGISLATIVE COUNSEL'S DIGEST

SB 420, as amended, Huff. Prostitution.

Existing law provides that a person who solicits or agrees to engage in or engages in any act of prostitution is guilty of disorderly conduct, a misdemeanor.

This bill would recast these provisions to distinguish between the different individuals who are guilty of disorderly conduct by soliciting, agreeing to engage in, or engaging in, any act of prostitution ~~and would require a conviction upon proof of (1) the intent to receive compensation, money, or anything of value and with the specific intent to engage in any act of prostitution or (2) the individual providing compensation, money, or anything of value to the other person, who may be 18 years of age or older or a minor in exchange for the act of prostitution. based on whether the person is soliciting or agreeing to receive compensation, money, or anything of value for an act of prostitution, as specified, or the person is soliciting or agreeing to provide compensation, money,~~

or anything of value for an act of prostitution with a minor or with an adult, as specified.

This bill would incorporate additional changes to Section 647 of the Penal Code, proposed by SB 1129, SB 1322, and AB 1708, that would become operative only if this bill and one or more of those other bills are enacted and become effective January 1, 2017, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 647 of the Penal Code is amended to
2 read:

3 647. Except as provided in subdivision (l), every person who
4 commits any of the following acts is guilty of disorderly conduct,
5 a misdemeanor:

6 (a) An individual who solicits anyone to engage in or who
7 engages in lewd or dissolute conduct in any public place or in any
8 place open to the public or exposed to public view.

9 (b) (1) An individual who solicits, or who agrees to engage in,
10 or who engages in, any act of prostitution with the intent to receive
11 compensation, money, or anything of value, ~~and with the specific~~
12 ~~intent to so engage.~~ *value from another person. An individual*
13 *agrees to engage in an act of prostitution when, with specific intent*
14 *to so engage, he or she manifests an acceptance of an offer or*
15 *solicitation by another person to so engage, regardless of whether*
16 *the offer or solicitation was made by a person who also possessed*
17 *the specific intent to engage in an act of prostitution.*

18 (2) An individual who solicits, or who agrees to engage in, or
19 who engages in, any act of prostitution with another person who
20 is 18 years of age or older in exchange for the individual providing
21 compensation, money, or anything of value to the other person.
22 An individual agrees to engage in an act of prostitution when, with
23 specific intent to so engage, he or she manifests an acceptance of
24 an offer or solicitation by another person who is 18 years of age
25 or older to so engage, regardless of whether the offer or solicitation
26 was made by a person who also possessed the specific intent to
27 engage in an act of prostitution.

1 (3) An individual who solicits, or who agrees to engage in, or
2 who engages in, any act of prostitution with another person who
3 is a minor in exchange for the individual providing compensation,
4 money, or anything of value to the minor. An individual agrees to
5 engage in an act of prostitution when, with specific intent to so
6 engage, he or she manifests an acceptance of an offer or solicitation
7 by someone who is a minor to so engage, regardless of whether
8 the offer or solicitation was made by a minor who also possessed
9 the specific intent to engage in an act of prostitution.

10 (4) A manifestation of acceptance of an offer or solicitation to
11 engage in an act of prostitution shall not constitute a violation of
12 this subdivision unless some act, in addition to the manifestation
13 of acceptance, is done within this state in furtherance of the
14 commission of the act of prostitution by the person manifesting
15 an acceptance of an offer or solicitation to engage in that act. As
16 used in this subdivision, “prostitution” includes any lewd act
17 between persons for money or other consideration.

18 (c) Who accosts other persons in any public place or in any
19 place open to the public for the purpose of begging or soliciting
20 alms.

21 (d) Who loiters in or about any toilet open to the public for the
22 purpose of engaging in or soliciting any lewd or lascivious or any
23 unlawful act.

24 (e) Who lodges in any building, structure, vehicle, or place,
25 whether public or private, without the permission of the owner or
26 person entitled to the possession or in control of it.

27 (f) Who is found in any public place under the influence of
28 intoxicating liquor, any drug, controlled substance, toluene, or any
29 combination of any intoxicating liquor, drug, controlled substance,
30 or toluene, in a condition that he or she is unable to exercise care
31 for his or her own safety or the safety of others, or by reason of
32 his or her being under the influence of intoxicating liquor, any
33 drug, controlled substance, toluene, or any combination of any
34 intoxicating liquor, drug, or toluene, interferes with or obstructs
35 or prevents the free use of any street, sidewalk, or other public
36 way.

37 (g) When a person has violated subdivision (f), a peace officer,
38 if he or she is reasonably able to do so, shall place the person, or
39 cause him or her to be placed, in civil protective custody. The
40 person shall be taken to a facility, designated pursuant to Section

1 5170 of the Welfare and Institutions Code, for the 72-hour
2 treatment and evaluation of inebriates. A peace officer may place
3 a person in civil protective custody with that kind and degree of
4 force which would be lawful were he or she effecting an arrest for
5 a misdemeanor without a warrant. A person who has been placed
6 in civil protective custody shall not thereafter be subject to any
7 criminal prosecution or juvenile court proceeding based on the
8 facts giving rise to this placement. This subdivision shall not apply
9 to the following persons:

10 (1) Any person who is under the influence of any drug, or under
11 the combined influence of intoxicating liquor and any drug.

12 (2) Any person who a peace officer has probable cause to believe
13 has committed any felony, or who has committed any misdemeanor
14 in addition to subdivision (f).

15 (3) Any person who a peace officer in good faith believes will
16 attempt escape or will be unreasonably difficult for medical
17 personnel to control.

18 (h) Who loiters, prowls, or wanders upon the private property
19 of another, at any time, without visible or lawful business with the
20 owner or occupant. As used in this subdivision, “loiter” means to
21 delay or linger without a lawful purpose for being on the property
22 and for the purpose of committing a crime as opportunity may be
23 discovered.

24 (i) Who, while loitering, prowling, or wandering upon the private
25 property of another, at any time, peeks in the door or window of
26 any inhabited building or structure, without visible or lawful
27 business with the owner or occupant.

28 (j) (1) Any person who looks through a hole or opening, into,
29 or otherwise views, by means of any instrumentality, including,
30 but not limited to, a periscope, telescope, binoculars, camera,
31 motion picture camera, camcorder, or mobile phone, the interior
32 of a bedroom, bathroom, changing room, fitting room, dressing
33 room, or tanning booth, or the interior of any other area in which
34 the occupant has a reasonable expectation of privacy, with the
35 intent to invade the privacy of a person or persons inside. This
36 subdivision shall not apply to those areas of a private business
37 used to count currency or other negotiable instruments.

38 (2) Any person who uses a concealed camcorder, motion picture
39 camera, or photographic camera of any type, to secretly videotape,
40 film, photograph, or record by electronic means, another,

1 identifiable person under or through the clothing being worn by
2 that other person, for the purpose of viewing the body of, or the
3 undergarments worn by, that other person, without the consent or
4 knowledge of that other person, with the intent to arouse, appeal
5 to, or gratify the lust, passions, or sexual desires of that person and
6 invade the privacy of that other person, under circumstances in
7 which the other person has a reasonable expectation of privacy.

8 (3) (A) Any person who uses a concealed camcorder, motion
9 picture camera, or photographic camera of any type, to secretly
10 videotape, film, photograph, or record by electronic means, another,
11 identifiable person who may be in a state of full or partial undress,
12 for the purpose of viewing the body of, or the undergarments worn
13 by, that other person, without the consent or knowledge of that
14 other person, in the interior of a bedroom, bathroom, changing
15 room, fitting room, dressing room, or tanning booth, or the interior
16 of any other area in which that other person has a reasonable
17 expectation of privacy, with the intent to invade the privacy of that
18 other person.

19 (B) Neither of the following is a defense to the crime specified
20 in this paragraph:

21 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
22 employer, employee, or business partner or associate of the victim,
23 or an agent of any of these.

24 (ii) The victim was not in a state of full or partial undress.

25 (4) (A) Any person who intentionally distributes the image of
26 the intimate body part or parts of another identifiable person, or
27 an image of the person depicted engaged in an act of sexual
28 intercourse, sodomy, oral copulation, sexual penetration, or an
29 image of masturbation by the person depicted or in which the
30 person depicted participates, under circumstances in which the
31 persons agree or understand that the image shall remain private,
32 the person distributing the image knows or should know that
33 distribution of the image will cause serious emotional distress, and
34 the person depicted suffers that distress.

35 (B) A person intentionally distributes an image described in
36 subparagraph (A) when he or she personally distributes the image,
37 or arranges, specifically requests, or intentionally causes another
38 person to distribute that image.

39 (C) As used in this paragraph, “intimate body part” means any
40 portion of the genitals, the anus and in the case of a female, also

1 includes any portion of the breasts below the top of the areola, that
2 is either uncovered or clearly visible through clothing.

3 (D) It shall not be a violation of this paragraph to distribute an
4 image described in subparagraph (A) if any of the following
5 applies:

6 (i) The distribution is made in the course of reporting an
7 unlawful activity.

8 (ii) The distribution is made in compliance with a subpoena or
9 other court order for use in a legal proceeding.

10 (iii) The distribution is made in the course of a lawful public
11 proceeding.

12 (5) This subdivision shall not preclude punishment under any
13 section of law providing for greater punishment.

14 (k) (1) In any accusatory pleading charging a violation of
15 subdivision (b), if the defendant has been once previously convicted
16 of a violation of that subdivision, the previous conviction shall be
17 charged in the accusatory pleading. If the previous conviction is
18 found to be true by the jury, upon a jury trial, or by the court, upon
19 a court trial, or is admitted by the defendant, the defendant shall
20 be imprisoned in a county jail for a period of not less than 45 days
21 and shall not be eligible for release upon completion of sentence,
22 on probation, on parole, on work furlough or work release, or on
23 any other basis until he or she has served a period of not less than
24 45 days in a county jail. In all cases in which probation is granted,
25 the court shall require as a condition thereof that the person be
26 confined in a county jail for at least 45 days. In no event does the
27 court have the power to absolve a person who violates this
28 subdivision from the obligation of spending at least 45 days in
29 confinement in a county jail.

30 (2) In any accusatory pleading charging a violation of
31 subdivision (b), if the defendant has been previously convicted
32 two or more times of a violation of that subdivision, each of these
33 previous convictions shall be charged in the accusatory pleading.
34 If two or more of these previous convictions are found to be true
35 by the jury, upon a jury trial, or by the court, upon a court trial, or
36 are admitted by the defendant, the defendant shall be imprisoned
37 in a county jail for a period of not less than 90 days and shall not
38 be eligible for release upon completion of sentence, on probation,
39 on parole, on work furlough or work release, or on any other basis
40 until he or she has served a period of not less than 90 days in a

1 county jail. In all cases in which probation is granted, the court
2 shall require as a condition thereof that the person be confined in
3 a county jail for at least 90 days. In no event does the court have
4 the power to absolve a person who violates this subdivision from
5 the obligation of spending at least 90 days in confinement in a
6 county jail.

7 (3) In addition to any punishment prescribed by this section, a
8 court may suspend, for not more than 30 days, the privilege of the
9 person to operate a motor vehicle pursuant to Section 13201.5 of
10 the Vehicle Code for any violation of subdivision (b) that was
11 committed within 1,000 feet of a private residence and with the
12 use of a vehicle. In lieu of the suspension, the court may order a
13 person's privilege to operate a motor vehicle restricted, for not
14 more than six months, to necessary travel to and from the person's
15 place of employment or education. If driving a motor vehicle is
16 necessary to perform the duties of the person's employment, the
17 court may also allow the person to drive in that person's scope of
18 employment.

19 (l) (1) A second or subsequent violation of subdivision (j) is
20 punishable by imprisonment in a county jail not exceeding one
21 year, or by a fine not exceeding two thousand dollars (\$2,000), or
22 by both that fine and imprisonment.

23 (2) If the victim of a violation of subdivision (j) was a minor at
24 the time of the offense, the violation is punishable by imprisonment
25 in a county jail not exceeding one year, or by a fine not exceeding
26 two thousand dollars (\$2,000), or by both that fine and
27 imprisonment.

28 (m) (1) If a crime is committed in violation of subdivision (b)
29 and the person who was solicited was a minor at the time of the
30 offense, and if the defendant knew or should have known that the
31 person who was solicited was a minor at the time of the offense,
32 the violation is punishable by imprisonment in a county jail for
33 not less than two days and not more than one year, or by a fine not
34 exceeding ten thousand dollars (\$10,000), or by both that fine and
35 imprisonment.

36 (2) The court may, in unusual cases, when the interests of justice
37 are best served, reduce or eliminate the mandatory two days of
38 imprisonment in a county jail required by this subdivision. If the
39 court reduces or eliminates the mandatory two days' imprisonment,
40 the court shall specify the reason on the record.

1 *SEC. 1.1. Section 647 of the Penal Code is amended to read:*

2 647. Except as provided in subdivision (l), every person who
3 commits any of the following acts is guilty of disorderly conduct,
4 a misdemeanor:

5 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
6 *engages in lewd or dissolute conduct in any public place or in any*
7 *place open to the public or exposed to public view.*

8 (b) (1) *An individual who solicits, or who agrees to engage in,*
9 *or who engages in, any act of prostitution with the intent to receive*
10 *compensation, money, or anything of value from another person.*
11 *An individual agrees to engage in an act of prostitution when, with*
12 *specific intent to so engage, he or she manifests an acceptance of*
13 *an offer or solicitation by another person to so engage, regardless*
14 *of whether the offer or solicitation was made by a person who also*
15 *possessed the specific intent to engage in an act of prostitution.*

16 (2) *An individual who solicits, or who agrees to engage in, or*
17 *who engages in, any act of prostitution with another person who*
18 *is 18 years of age or older in exchange for the individual providing*
19 *compensation, money, or anything of value to the other person.*
20 *An individual agrees to engage in an act of prostitution when, with*
21 *specific intent to so engage, he or she manifests an acceptance of*
22 *an offer or solicitation by another person who is 18 years of age*
23 *or older to so engage, regardless of whether the offer or solicitation*
24 *was made by a person who also possessed the specific intent to*
25 *engage in an act of prostitution.*

26 (3) *An individual who solicits, or who agrees to engage in, or*
27 *who engages in, any act of prostitution with another person who*
28 *is a minor in exchange for the individual providing compensation,*
29 *money, or anything of value to the minor. An individual agrees to*
30 *engage in an act of prostitution when, with specific intent to so*
31 *engage, he or she manifests an acceptance of an offer or*
32 *solicitation by someone who is a minor to so engage, regardless*
33 *of whether the offer or solicitation was made by a minor who also*
34 *possessed the specific intent to engage in an act of prostitution.*

35 ~~(b) Who solicits or who agrees to engage in or who engages in~~
36 ~~any act of prostitution. A person agrees to engage in an act of~~
37 ~~prostitution when, with specific intent to so engage, he or she~~
38 ~~manifests an~~

39 (4) *A manifestation of acceptance of an offer or solicitation to*
40 *so engage, regardless of whether the offer or solicitation was made*

1 ~~by a person who also possessed the specific intent to engage in~~
2 ~~prostitution. No agreement to engage in an act of prostitution shall~~
3 ~~does not~~ constitute a violation of this subdivision unless some act,
4 in addition to the ~~agreement~~, *manifestation of acceptance*, is done
5 within this state in furtherance of the commission of ~~an~~ the act of
6 prostitution by the person ~~agreeing~~ *manifesting an acceptance of*
7 *an offer or solicitation* to engage in that act. As used in this
8 subdivision, “prostitution” includes any lewd act between persons
9 for money or other consideration.

10 (c) Who accosts other persons in any public place or in any
11 place open to the public for the purpose of begging or soliciting
12 alms.

13 (d) Who loiters in or about any toilet open to the public for the
14 purpose of engaging in or soliciting any lewd or lascivious or any
15 unlawful act.

16 (e) Who lodges in any building, structure, vehicle, or place,
17 whether public or private, without the permission of the owner or
18 person entitled to the possession or in control of it.

19 (f) Who is found in any public place under the influence of
20 intoxicating liquor, any drug, controlled substance, toluene, or any
21 combination of any intoxicating liquor, drug, controlled substance,
22 or toluene, in a condition that he or she is unable to exercise care
23 for his or her own safety or the safety of others, or by reason of
24 his or her being under the influence of intoxicating liquor, any
25 drug, controlled substance, toluene, or any combination of any
26 intoxicating liquor, drug, or toluene, interferes with or obstructs
27 or prevents the free use of any street, sidewalk, or other public
28 way.

29 (g) ~~When~~ *If* a person has violated subdivision (f), a peace officer,
30 if he or she is reasonably able to do so, shall place the person, or
31 cause him or her to be placed, in civil protective custody. The
32 person shall be taken to a facility, designated pursuant to Section
33 5170 of the Welfare and Institutions Code, for the 72-hour
34 treatment and evaluation of inebriates. A peace officer may place
35 a person in civil protective custody with that kind and degree of
36 force ~~which~~ *that* would be lawful were he or she effecting an arrest
37 for a misdemeanor without a warrant. A person who has been
38 placed in civil protective custody shall not thereafter be subject to
39 any criminal prosecution or juvenile court proceeding based on

1 the facts giving rise to this placement. This subdivision ~~shall~~ *does*
2 not apply to the following persons:

3 (1) ~~Any~~ A person who is under the influence of any drug, or
4 under the combined influence of intoxicating liquor and any drug.

5 (2) ~~Any~~ A person who a peace officer has probable cause to
6 believe has committed any felony, or who has committed any
7 misdemeanor in addition to subdivision (f).

8 (3) ~~Any~~ A person who a peace officer in good faith believes
9 will attempt escape or will be unreasonably difficult for medical
10 personnel to control.

11 (h) Who loiters, prowls, or wanders upon the private property
12 of another, at any time, without visible or lawful business with the
13 owner or occupant. As used in this subdivision, “loiter” means to
14 delay or linger without a lawful purpose for being on the property
15 and for the purpose of committing a crime as opportunity may be
16 discovered.

17 (i) Who, while loitering, prowling, or wandering upon the private
18 property of another, at any time, peeks in the door or window of
19 any inhabited building or structure, without visible or lawful
20 business with the owner or occupant.

21 (j) (1) ~~Any~~ A person who looks through a hole or opening, into,
22 or otherwise views, by means of any instrumentality, including,
23 but not limited to, a periscope, telescope, binoculars, camera,
24 motion picture camera, camcorder, or mobile phone, the interior
25 of a bedroom, bathroom, changing room, fitting room, dressing
26 room, or tanning booth, or the interior of any other area in which
27 the occupant has a reasonable expectation of privacy, with the
28 intent to invade the privacy of a person or persons inside. This
29 subdivision ~~shall~~ *does* not apply to those areas of a private business
30 used to count currency or other negotiable instruments.

31 (2) ~~Any~~ A person who uses a concealed camcorder, motion
32 picture camera, or photographic camera of any type, to secretly
33 videotape, film, photograph, or record by electronic means, another,
34 identifiable person under or through the clothing being worn by
35 that other person, for the purpose of viewing the body of, or the
36 undergarments worn by, that other person, without the consent or
37 knowledge of that other person, with the intent to arouse, appeal
38 to, or gratify the lust, passions, or sexual desires of that person and
39 invade the privacy of that other person, under circumstances in
40 which the other person has a reasonable expectation of privacy.

1 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion
2 picture camera, or photographic camera of any type, to secretly
3 videotape, film, photograph, or record by electronic means, another,
4 identifiable person who may be in a state of full or partial undress,
5 for the purpose of viewing the body of, or the undergarments worn
6 by, that other person, without the consent or knowledge of that
7 other person, in the interior of a bedroom, bathroom, changing
8 room, fitting room, dressing room, or tanning booth, or the interior
9 of any other area in which that other person has a reasonable
10 expectation of privacy, with the intent to invade the privacy of that
11 other person.

12 (B) Neither of the following is a defense to the crime specified
13 in this paragraph:

14 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
15 employer, employee, or business partner or associate of the victim,
16 or an agent of any of these.

17 (ii) The victim was not in a state of full or partial undress.

18 (4) (A) ~~Any~~A person who intentionally distributes the image
19 of the intimate body part or parts of another identifiable person,
20 or an image of the person depicted engaged in an act of sexual
21 intercourse, sodomy, oral copulation, sexual penetration, or an
22 image of masturbation by the person depicted or in which the
23 person depicted participates, under circumstances in which the
24 persons agree or understand that the image shall remain private,
25 the person distributing the image knows or should know that
26 distribution of the image will cause serious emotional distress, and
27 the person depicted suffers that distress.

28 (B) A person intentionally distributes an image described in
29 subparagraph (A) when he or she personally distributes the image,
30 or arranges, specifically requests, or intentionally causes another
31 person to distribute that image.

32 (C) As used in this paragraph, “intimate body part” means any
33 portion of the genitals, the anus and in the case of a female, also
34 includes any portion of the breasts below the top of the areola, that
35 is either uncovered or clearly visible through clothing.

36 (D) It shall not be a violation of this paragraph to distribute an
37 image described in subparagraph (A) if any of the following
38 applies:

39 (i) The distribution is made in the course of reporting an
40 unlawful activity.

1 (ii) The distribution is made in compliance with a subpoena or
2 other court order for use in a legal proceeding.

3 (iii) The distribution is made in the course of a lawful public
4 proceeding.

5 (5) This subdivision ~~shall~~ *does* not preclude punishment under
6 any section of law providing for greater punishment.

7 ~~(k) In any accusatory pleading charging a violation of~~
8 ~~subdivision (b), if the defendant has been once previously convicted~~
9 ~~of a violation of that subdivision, the previous conviction shall be~~
10 ~~charged in the accusatory pleading. If the previous conviction is~~
11 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
12 ~~a court trial, or is admitted by the defendant, the defendant shall~~
13 ~~be imprisoned in a county jail for a period of not less than 45 days~~
14 ~~and shall not be eligible for release upon completion of sentence,~~
15 ~~on probation, on parole, on work furlough or work release, or on~~
16 ~~any other basis until he or she has served a period of not less than~~
17 ~~45 days in a county jail. In all cases in which probation is granted,~~
18 ~~the court shall require as a condition thereof that the person be~~
19 ~~confined in a county jail for at least 45 days. In no event does the~~
20 ~~court have the power to absolve a person who violates this~~
21 ~~subdivision from the obligation of spending at least 45 days in~~
22 ~~confinement in a county jail.~~

23 ~~In any accusatory pleading charging a violation of subdivision~~
24 ~~(b), if the defendant has been previously convicted two or more~~
25 ~~times of a violation of that subdivision, each of these previous~~
26 ~~convictions shall be charged in the accusatory pleading. If two or~~
27 ~~more of these previous convictions are found to be true by the jury,~~
28 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
29 ~~by the defendant, the defendant shall be imprisoned in a county~~
30 ~~jail for a period of not less than 90 days and shall not be eligible~~
31 ~~for release upon completion of sentence, on probation, on parole,~~
32 ~~on work furlough or work release, or on any other basis until he~~
33 ~~or she has served a period of not less than 90 days in a county jail.~~
34 ~~In all cases in which probation is granted, the court shall require~~
35 ~~as a condition thereof that the person be confined in a county jail~~
36 ~~for at least 90 days. In no event does the court have the power to~~
37 ~~absolve a person who violates this subdivision from the obligation~~
38 ~~of spending at least 90 days in confinement in a county jail.~~

39 ~~In~~

1 (k) In addition to any punishment prescribed by this section, a
2 court may suspend, for not more than 30 days, the privilege of the
3 person to operate a motor vehicle pursuant to Section 13201.5 of
4 the Vehicle Code for any violation of subdivision (b) that was
5 committed within 1,000 feet of a private residence and with the
6 use of a vehicle. In lieu of the suspension, the court may order a
7 person's privilege to operate a motor vehicle restricted, for not
8 more than six months, to necessary travel to and from the person's
9 place of employment or education. If driving a motor vehicle is
10 necessary to perform the duties of the person's employment, the
11 court may also allow the person to drive in that person's scope of
12 employment.

13 (l) (1) A second or subsequent violation of subdivision (j) is
14 punishable by imprisonment in a county jail not exceeding one
15 year, or by a fine not exceeding two thousand dollars (\$2,000), or
16 by both that fine and imprisonment.

17 (2) If the victim of a violation of subdivision (j) was a minor at
18 the time of the offense, the violation is punishable by imprisonment
19 in a county jail not exceeding one year, or by a fine not exceeding
20 two thousand dollars (\$2,000), or by both that fine and
21 imprisonment.

22 (m) (1) If a crime is committed in violation of subdivision (b)
23 and the person who was solicited was a minor at the time of the
24 offense, and if the defendant knew or should have known that the
25 person who was solicited was a minor at the time of the offense,
26 the violation is punishable by imprisonment in a county jail for
27 not less than two days and not more than one year, or by a fine not
28 exceeding ten thousand dollars (\$10,000), or by both that fine and
29 imprisonment.

30 (2) The court may, in unusual cases, when the interests of justice
31 are best served, reduce or eliminate the mandatory two days of
32 imprisonment in a county jail required by this subdivision. If the
33 court reduces or eliminates the mandatory two days' imprisonment,
34 the court shall specify the reason on the record.

35 SEC. 1.2. Section 647 of the Penal Code is amended to read:

36 647. Except as provided in *paragraph (5) of subdivision (b)*
37 *and subdivision (l)*, every person who commits any of the following
38 acts is guilty of disorderly conduct, a misdemeanor:

1 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
2 *engages in lewd or dissolute conduct in any public place or in any*
3 *place open to the public or exposed to public view.*

4 (b) (1) *An individual who solicits, or who agrees to engage in,*
5 *or who engages in, any act of prostitution with the intent to receive*
6 *compensation, money, or anything of value from another person.*
7 *An individual agrees to engage in an act of prostitution when, with*
8 *specific intent to so engage, he or she manifests an acceptance of*
9 *an offer or solicitation by another person to so engage, regardless*
10 *of whether the offer or solicitation was made by a person who also*
11 *possessed the specific intent to engage in an act of prostitution.*

12 (2) *An individual who solicits, or who agrees to engage in, or*
13 *who engages in, any act of prostitution with another person who*
14 *is 18 years of age or older in exchange for the individual providing*
15 *compensation, money, or anything of value to the other person.*
16 *An individual agrees to engage in an act of prostitution when, with*
17 *specific intent to so engage, he or she manifests an acceptance of*
18 *an offer or solicitation by another person who is 18 years of age*
19 *or older to so engage, regardless of whether the offer or solicitation*
20 *was made by a person who also possessed the specific intent to*
21 *engage in an act of prostitution.*

22 (3) *An individual who solicits, or who agrees to engage in, or*
23 *who engages in, any act of prostitution with another person who*
24 *is a minor in exchange for the individual providing compensation,*
25 *money, or anything of value to the minor. An individual agrees to*
26 *engage in an act of prostitution when, with specific intent to so*
27 *engage, he or she manifests an acceptance of an offer or*
28 *solicitation by someone who is a minor to so engage, regardless*
29 *of whether the offer or solicitation was made by a minor who also*
30 *possessed the specific intent to engage in an act of prostitution.*

31 (b) ~~Who solicits or who agrees to engage in or who engages in~~
32 ~~any act of prostitution. A person agrees to engage in an act of~~
33 ~~prostitution when, with specific intent to so engage, he or she~~
34 ~~manifests an~~

35 (4) *A manifestation of acceptance of an offer or solicitation to*
36 *so engage, regardless of whether the offer or solicitation was made*
37 *by a person who also possessed the specific intent to engage in*
38 *prostitution. No agreement to engage in an act of prostitution shall*
39 *not constitute a violation of this subdivision unless some act, in*
40 *addition to the agreement, manifestation of acceptance, is done*

1 within this state in furtherance of the commission of ~~an~~ the act of
2 prostitution by the person ~~agreeing~~ *manifesting an acceptance of*
3 *an offer or solicitation* to engage in that act. As used in this
4 subdivision, “prostitution” includes any lewd act between persons
5 for money or other consideration.

6 *(5) Notwithstanding paragraphs (1) to (3), inclusive, this*
7 *subdivision does not apply to a child under 18 years of age who*
8 *is alleged to have engaged in conduct to receive money or other*
9 *consideration that would, if committed by an adult, violate this*
10 *subdivision. A commercially exploited child under this paragraph*
11 *may be adjudged a dependent child of the court pursuant to*
12 *paragraph (2) of subdivision (b) of Section 300 of the Welfare and*
13 *Institutions Code and may be taken into temporary custody*
14 *pursuant to subdivision (a) of Section 305 of the Welfare and*
15 *Institutions Code, if the conditions allowing temporary custody*
16 *without warrant are met.*

17 (c) Who accosts other persons in any public place or in any
18 place open to the public for the purpose of begging or soliciting
19 alms.

20 (d) Who loiters in or about any toilet open to the public for the
21 purpose of engaging in or soliciting any lewd or lascivious or any
22 unlawful act.

23 (e) Who lodges in any building, structure, vehicle, or place,
24 whether public or private, without the permission of the owner or
25 person entitled to the possession or in control of it.

26 (f) Who is found in any public place under the influence of
27 intoxicating liquor, any drug, controlled substance, toluene, or any
28 combination of any intoxicating liquor, drug, controlled substance,
29 or toluene, in a condition that he or she is unable to exercise care
30 for his or her own safety or the safety of others, or by reason of
31 his or her being under the influence of intoxicating liquor, any
32 drug, controlled substance, toluene, or any combination of any
33 intoxicating liquor, drug, or toluene, interferes with or obstructs
34 or prevents the free use of any street, sidewalk, or other public
35 way.

36 (g) When a person has violated subdivision (f), a peace officer,
37 if he or she is reasonably able to do so, shall place the person, or
38 cause him or her to be placed, in civil protective custody. The
39 person shall be taken to a facility, designated pursuant to Section
40 5170 of the Welfare and Institutions Code, for the 72-hour

1 treatment and evaluation of inebriates. A peace officer may place
2 a person in civil protective custody with that kind and degree of
3 force which would be lawful were he or she effecting an arrest for
4 a misdemeanor without a warrant. A person who has been placed
5 in civil protective custody shall not thereafter be subject to any
6 criminal prosecution or juvenile court proceeding based on the
7 facts giving rise to this placement. This subdivision shall not apply
8 to the following persons:

9 (1) Any person who is under the influence of any drug, or under
10 the combined influence of intoxicating liquor and any drug.

11 (2) Any person who a peace officer has probable cause to believe
12 has committed any felony, or who has committed any misdemeanor
13 in addition to subdivision (f).

14 (3) Any person who a peace officer in good faith believes will
15 attempt escape or will be unreasonably difficult for medical
16 personnel to control.

17 (h) Who loiters, prowls, or wanders upon the private property
18 of another, at any time, without visible or lawful business with the
19 owner or occupant. As used in this subdivision, “loiter” means to
20 delay or linger without a lawful purpose for being on the property
21 and for the purpose of committing a crime as opportunity may be
22 discovered.

23 (i) Who, while loitering, prowling, or wandering upon the private
24 property of another, at any time, peeks in the door or window of
25 any inhabited building or structure, without visible or lawful
26 business with the owner or occupant.

27 (j) (1) Any person who looks through a hole or opening, into,
28 or otherwise views, by means of any instrumentality, including,
29 but not limited to, a periscope, telescope, binoculars, camera,
30 motion picture camera, camcorder, or mobile phone, the interior
31 of a bedroom, bathroom, changing room, fitting room, dressing
32 room, or tanning booth, or the interior of any other area in which
33 the occupant has a reasonable expectation of privacy, with the
34 intent to invade the privacy of a person or persons inside. This
35 subdivision shall not apply to those areas of a private business
36 used to count currency or other negotiable instruments.

37 (2) Any person who uses a concealed camcorder, motion picture
38 camera, or photographic camera of any type, to secretly videotape,
39 film, photograph, or record by electronic means, another,
40 identifiable person under or through the clothing being worn by

1 that other person, for the purpose of viewing the body of, or the
2 undergarments worn by, that other person, without the consent or
3 knowledge of that other person, with the intent to arouse, appeal
4 to, or gratify the lust, passions, or sexual desires of that person and
5 invade the privacy of that other person, under circumstances in
6 which the other person has a reasonable expectation of privacy.

7 (3) (A) Any person who uses a concealed camcorder, motion
8 picture camera, or photographic camera of any type, to secretly
9 videotape, film, photograph, or record by electronic means, another,
10 identifiable person who may be in a state of full or partial undress,
11 for the purpose of viewing the body of, or the undergarments worn
12 by, that other person, without the consent or knowledge of that
13 other person, in the interior of a bedroom, bathroom, changing
14 room, fitting room, dressing room, or tanning booth, or the interior
15 of any other area in which that other person has a reasonable
16 expectation of privacy, with the intent to invade the privacy of that
17 other person.

18 (B) Neither of the following is a defense to the crime specified
19 in this paragraph:

20 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
21 employer, employee, or business partner or associate of the victim,
22 or an agent of any of these.

23 (ii) The victim was not in a state of full or partial undress.

24 (4) (A) Any person who intentionally distributes the image of
25 the intimate body part or parts of another identifiable person, or
26 an image of the person depicted engaged in an act of sexual
27 intercourse, sodomy, oral copulation, sexual penetration, or an
28 image of masturbation by the person depicted or in which the
29 person depicted participates, under circumstances in which the
30 persons agree or understand that the image shall remain private,
31 the person distributing the image knows or should know that
32 distribution of the image will cause serious emotional distress, and
33 the person depicted suffers that distress.

34 (B) A person intentionally distributes an image described in
35 subparagraph (A) when he or she personally distributes the image,
36 or arranges, specifically requests, or intentionally causes another
37 person to distribute that image.

38 (C) As used in this paragraph, “intimate body part” means any
39 portion of the genitals, the anus and in the case of a female, also

1 includes any portion of the breasts below the top of the areola, that
2 is either uncovered or clearly visible through clothing.

3 (D) It shall not be a violation of this paragraph to distribute an
4 image described in subparagraph (A) if any of the following
5 applies:

6 (i) The distribution is made in the course of reporting an
7 unlawful activity.

8 (ii) The distribution is made in compliance with a subpoena or
9 other court order for use in a legal proceeding.

10 (iii) The distribution is made in the course of a lawful public
11 proceeding.

12 (5) This subdivision shall not preclude punishment under any
13 section of law providing for greater punishment.

14 (k) (1) In any accusatory pleading charging a violation of
15 subdivision (b), if the defendant has been once previously convicted
16 of a violation of that subdivision, the previous conviction shall be
17 charged in the accusatory pleading. If the previous conviction is
18 found to be true by the jury, upon a jury trial, or by the court, upon
19 a court trial, or is admitted by the defendant, the defendant shall
20 be imprisoned in a county jail for a period of not less than 45 days
21 and shall not be eligible for release upon completion of sentence,
22 on probation, on parole, on work furlough or work release, or on
23 any other basis until he or she has served a period of not less than
24 45 days in a county jail. In all cases in which probation is granted,
25 the court shall require as a condition thereof that the person be
26 confined in a county jail for at least 45 days. In no event does the
27 court have the power to absolve a person who violates this
28 subdivision from the obligation of spending at least 45 days in
29 confinement in a county jail.

30 ~~In~~

31 (2) *In* any accusatory pleading charging a violation of
32 subdivision (b), if the defendant has been previously convicted
33 two or more times of a violation of that subdivision, each of these
34 previous convictions shall be charged in the accusatory pleading.
35 If two or more of these previous convictions are found to be true
36 by the jury, upon a jury trial, or by the court, upon a court trial, or
37 are admitted by the defendant, the defendant shall be imprisoned
38 in a county jail for a period of not less than 90 days and shall not
39 be eligible for release upon completion of sentence, on probation,
40 on parole, on work furlough or work release, or on any other basis

1 until he or she has served a period of not less than 90 days in a
2 county jail. In all cases in which probation is granted, the court
3 shall require as a condition thereof that the person be confined in
4 a county jail for at least 90 days. In no event does the court have
5 the power to absolve a person who violates this subdivision from
6 the obligation of spending at least 90 days in confinement in a
7 county jail.

8 ~~In~~

9 (3) *In* addition to any punishment prescribed by this section, a
10 court may suspend, for not more than 30 days, the privilege of the
11 person to operate a motor vehicle pursuant to Section 13201.5 of
12 the Vehicle Code for any violation of subdivision (b) that was
13 committed within 1,000 feet of a private residence and with the
14 use of a vehicle. In lieu of the suspension, the court may order a
15 person's privilege to operate a motor vehicle restricted, for not
16 more than six months, to necessary travel to and from the person's
17 place of employment or education. If driving a motor vehicle is
18 necessary to perform the duties of the person's employment, the
19 court may also allow the person to drive in that person's scope of
20 employment.

21 (l) (1) A second or subsequent violation of subdivision (j) is
22 punishable by imprisonment in a county jail not exceeding one
23 year, or by a fine not exceeding two thousand dollars (\$2,000), or
24 by both that fine and imprisonment.

25 (2) If the victim of a violation of subdivision (j) was a minor at
26 the time of the offense, the violation is punishable by imprisonment
27 in a county jail not exceeding one year, or by a fine not exceeding
28 two thousand dollars (\$2,000), or by both that fine and
29 imprisonment.

30 (m) (1) If a crime is committed in violation of subdivision (b)
31 and the person who was solicited was a minor at the time of the
32 offense, and if the defendant knew or should have known that the
33 person who was solicited was a minor at the time of the offense,
34 the violation is punishable by imprisonment in a county jail for
35 not less than two days and not more than one year, or by a fine not
36 exceeding ten thousand dollars (\$10,000), or by both that fine and
37 imprisonment.

38 (2) The court may, in unusual cases, when the interests of justice
39 are best served, reduce or eliminate the mandatory two days of
40 imprisonment in a county jail required by this subdivision. If the

1 court reduces or eliminates the mandatory two days' imprisonment,
2 the court shall specify the reason on the record.

3 *SEC. 1.3. Section 647 of the Penal Code is amended to read:*

4 647. Except as provided in subdivision (l), ~~every~~ a person who
5 commits any of the following acts is guilty of disorderly conduct,
6 a misdemeanor:

7 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
8 *engages in lewd or dissolute conduct in any public place or in any*
9 *place open to the public or exposed to public view.*

10 (b) (1) *An individual who solicits, or who agrees to engage in,*
11 *or who engages in, any act of prostitution with the intent to receive*
12 *compensation, money, or anything of value from another person.*
13 *An individual agrees to engage in an act of prostitution when, with*
14 *specific intent to so engage, he or she manifests an acceptance of*
15 *an offer or solicitation by another person to so engage, regardless*
16 *of whether the offer or solicitation was made by a person who also*
17 *possessed the specific intent to engage in an act of prostitution.*

18 (2) *An individual who solicits, or who agrees to engage in, or*
19 *who engages in, any act of prostitution with another person who*
20 *is 18 years of age or older in exchange for the individual providing*
21 *compensation, money, or anything of value to the other person.*
22 *An individual agrees to engage in an act of prostitution when, with*
23 *specific intent to so engage, he or she manifests an acceptance of*
24 *an offer or solicitation by another person who is 18 years of age*
25 *or older to so engage, regardless of whether the offer or solicitation*
26 *was made by a person who also possessed the specific intent to*
27 *engage in an act of prostitution.*

28 (3) *An individual who solicits, or who agrees to engage in, or*
29 *who engages in, any act of prostitution with another person who*
30 *is a minor in exchange for the individual providing compensation,*
31 *money, or anything of value to the minor. An individual agrees to*
32 *engage in an act of prostitution when, with specific intent to so*
33 *engage, he or she manifests an acceptance of an offer or*
34 *solicitation by someone who is a minor to so engage, regardless*
35 *of whether the offer or solicitation was made by a minor who also*
36 *possessed the specific intent to engage in an act of prostitution.*

37 ~~(b) Who solicits or who agrees to engage in or who engages in~~
38 ~~any act of prostitution. A person agrees to engage in an act of~~
39 ~~prostitution when, with specific intent to so engage, he or she~~
40 ~~manifests an~~

1 (4) *A manifestation of acceptance of an offer or solicitation to*
2 *so engage, regardless of whether the offer or solicitation was made*
3 *by a person who also possessed the specific intent to engage in*
4 *prostitution. No agreement to engage in an act of prostitution shall*
5 *not constitute a violation of this subdivision unless some act, in*
6 *addition to the agreement, manifestation of acceptance, is done*
7 *within this state in furtherance of the commission of an the act of*
8 *prostitution by the person agreeing manifesting an acceptance of*
9 *an offer or solicitation to engage in that act. As used in this*
10 *subdivision, “prostitution” includes any lewd act between persons*
11 *for money or other consideration.*

12 (5) *Except as provided in paragraph (6) and subdivision (k), a*
13 *violation of paragraph (2) or (3) is punishable by imprisonment*
14 *in a county jail for not less than 72 hours and not more than six*
15 *months and by a fine of not less than two hundred fifty dollars*
16 *(\$250) but not exceeding one thousand dollars (\$1,000). Upon a*
17 *violation of paragraph (2) or (3), a person is not eligible for*
18 *release upon completion of sentence, on probation, on parole, on*
19 *work furlough or work release, or on any other basis until he or*
20 *she has served a period of not less than 24 continuous hours in a*
21 *county jail. In all cases in which probation is granted, the court*
22 *shall require as a condition of probation that the person be*
23 *confined in a county jail for at least 24 hours. The court shall*
24 *order that a person punished under this paragraph, who is to be*
25 *punished by imprisonment in the county jail, be imprisoned on*
26 *days other than days of regular employment of the person, as*
27 *determined by the court. If the court determines that 24 hours of*
28 *continuous imprisonment would interfere with the person’s work*
29 *schedule, the court shall allow the person to serve the*
30 *imprisonment whenever the person is normally scheduled for time*
31 *off from work. The court may make this determination based upon*
32 *a representation from the defendant’s attorney or upon an affidavit*
33 *or testimony from the defendant.*

34 (6) *If a defendant violates paragraph (3) and knew or should*
35 *have known that the person who was solicited was a minor at the*
36 *time of the offense, or if a defendant violates paragraph (2) and*
37 *the person who was solicited was a person posing as a minor and*
38 *the defendant had specific intent to solicit a minor, the violation*
39 *is punishable by imprisonment in a county jail for not less than*
40 *72 hours and not more than one year and by a fine not less than*

1 one thousand dollars (\$1,000) but not exceeding ten thousand
2 dollars (\$10,000). Upon a violation of this paragraph, a person
3 is not eligible for release upon completion of sentence, on
4 probation, on parole, on work furlough or work release, or on any
5 other basis until he or she has served a period of not less than 48
6 continuous hours in a county jail. In all cases in which probation
7 is granted, the court shall require as a condition of probation that
8 the person be confined in a county jail for at least 48 hours. The
9 court shall order that a person punished under this paragraph,
10 who is to be punished by imprisonment in the county jail, be
11 imprisoned on days other than days of regular employment of the
12 person, as determined by the court. If the court determines that
13 48 hours of continuous imprisonment would interfere with the
14 person's work schedule, the court shall allow the person to serve
15 the imprisonment whenever the person is normally scheduled for
16 time off from work. The court may make this determination based
17 upon a representation from the defendant's attorney or upon an
18 affidavit or testimony from the defendant.

19 (7) This subdivision does not prohibit prosecution under any
20 other law.

21 (c) Who accosts other persons in any public place or in any
22 place open to the public for the purpose of begging or soliciting
23 alms.

24 (d) Who loiters in or about any toilet open to the public for the
25 purpose of engaging in or soliciting any lewd or lascivious or any
26 unlawful act.

27 (e) Who lodges in any building, structure, vehicle, or place,
28 whether public or private, without the permission of the owner or
29 person entitled to the possession or in control of it.

30 (f) Who is found in any public place under the influence of
31 intoxicating liquor, any drug, controlled substance, toluene, or any
32 combination of any intoxicating liquor, drug, controlled substance,
33 or toluene, in a condition that he or she is unable to exercise care
34 for his or her own safety or the safety of others, or by reason of
35 his or her being under the influence of intoxicating liquor, any
36 drug, controlled substance, toluene, or any combination of any
37 intoxicating liquor, drug, or toluene, interferes with or obstructs
38 or prevents the free use of any street, sidewalk, or other public
39 way.

(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j) (1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, or mobile phone, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This

1 subdivision shall not apply to those areas of a private business
2 used to count currency or other negotiable instruments.

3 (2) Any person who uses a concealed camcorder, motion picture
4 camera, or photographic camera of any type, to secretly videotape,
5 film, photograph, or record by electronic means, another,
6 identifiable person under or through the clothing being worn by
7 that other person, for the purpose of viewing the body of, or the
8 undergarments worn by, that other person, without the consent or
9 knowledge of that other person, with the intent to arouse, appeal
10 to, or gratify the lust, passions, or sexual desires of that person and
11 invade the privacy of that other person, under circumstances in
12 which the other person has a reasonable expectation of privacy.

13 (3) (A) Any person who uses a concealed camcorder, motion
14 picture camera, or photographic camera of any type, to secretly
15 videotape, film, photograph, or record by electronic means, another,
16 identifiable person who may be in a state of full or partial undress,
17 for the purpose of viewing the body of, or the undergarments worn
18 by, that other person, without the consent or knowledge of that
19 other person, in the interior of a bedroom, bathroom, changing
20 room, fitting room, dressing room, or tanning booth, or the interior
21 of any other area in which that other person has a reasonable
22 expectation of privacy, with the intent to invade the privacy of that
23 other person.

24 (B) Neither of the following is a defense to the crime specified
25 in this paragraph:

26 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
27 employer, employee, or business partner or associate of the victim,
28 or an agent of any of these.

29 (ii) The victim was not in a state of full or partial undress.

30 (4) (A) Any person who intentionally distributes the image of
31 the intimate body part or parts of another identifiable person, or
32 an image of the person depicted engaged in an act of sexual
33 intercourse, sodomy, oral copulation, sexual penetration, or an
34 image of masturbation by the person depicted or in which the
35 person depicted participates, under circumstances in which the
36 persons agree or understand that the image shall remain private,
37 the person distributing the image knows or should know that
38 distribution of the image will cause serious emotional distress, and
39 the person depicted suffers that distress.

1 (B) A person intentionally distributes an image described in
2 subparagraph (A) when he or she personally distributes the image,
3 or arranges, specifically requests, or intentionally causes another
4 person to distribute that image.

5 (C) As used in this paragraph, “intimate body part” means any
6 portion of the genitals, the anus and in the case of a female, also
7 includes any portion of the breasts below the top of the areola, that
8 is either uncovered or clearly visible through clothing.

9 (D) It shall not be a violation of this paragraph to distribute an
10 image described in subparagraph (A) if any of the following
11 applies:

12 (i) The distribution is made in the course of reporting an
13 unlawful activity.

14 (ii) The distribution is made in compliance with a subpoena or
15 other court order for use in a legal proceeding.

16 (iii) The distribution is made in the course of a lawful public
17 proceeding.

18 (5) This subdivision shall not preclude punishment under any
19 section of law providing for greater punishment.

20 (k) (1) In any accusatory pleading charging a violation of
21 subdivision (b), if the defendant has been once previously convicted
22 of a violation of that subdivision, the previous conviction shall be
23 charged in the accusatory pleading. If the previous conviction is
24 found to be true by the jury, upon a jury trial, or by the court, upon
25 a court trial, or is admitted by the defendant, the defendant shall
26 be imprisoned in a county jail for a period of not less than 45 days
27 and ~~shall not be~~ *is not* eligible for release upon completion of
28 sentence, on probation, on parole, on work furlough or work
29 release, or on any other basis until he or she has served a period
30 of not less than 45 days in a county jail. In all cases in which
31 probation is granted, the court shall require as a condition thereof
32 that the person be confined in a county jail for at least 45 days. ~~In~~
33 ~~no event does the court have the power to~~ *The court shall not*
34 ~~absolve a person who violates this subdivision from the obligation~~
35 ~~of spending at least 45 days in confinement in a county jail.~~

36 ~~In~~

37 (2) *In* any accusatory pleading charging a violation of
38 subdivision (b), if the defendant has been previously convicted
39 two or more times of a violation of that subdivision, each of these
40 previous convictions shall be charged in the accusatory pleading.

1 If two or more of these previous convictions are found to be true
2 by the jury, upon a jury trial, or by the court, upon a court trial, or
3 are admitted by the defendant, the defendant shall be imprisoned
4 in a county jail for a period of not less than 90 days and ~~shall is~~
5 ~~not be~~ eligible for release upon completion of sentence, on
6 probation, on parole, on work furlough or work release, or on any
7 other basis until he or she has served a period of not less than 90
8 days in a county jail. In all cases in which probation is granted,
9 the court shall require as a condition thereof that the person be
10 confined in a county jail for at least 90 days. ~~In no event does the~~
11 ~~court~~ *The court shall not* have the power to absolve a person who
12 violates this subdivision from the obligation of spending at least
13 90 days in confinement in a county jail.

14 ~~In~~

15 (3) *In* addition to any punishment prescribed by this section, a
16 court may suspend, for not more than 30 days, the privilege of the
17 person to operate a motor vehicle pursuant to Section 13201.5 of
18 the Vehicle Code for any violation of subdivision (b) that was
19 committed within 1,000 feet of a private residence and with the
20 use of a vehicle. In lieu of the suspension, the court may order a
21 person's privilege to operate a motor vehicle restricted, for not
22 more than six months, to necessary travel to and from the person's
23 place of employment or education. If driving a motor vehicle is
24 necessary to perform the duties of the person's employment, the
25 court may also allow the person to drive in that person's scope of
26 employment.

27 (l) (1) A second or subsequent violation of subdivision (j) is
28 punishable by imprisonment in a county jail not exceeding one
29 year, or by a fine not exceeding two thousand dollars (\$2,000), or
30 by both that fine and imprisonment.

31 (2) If the victim of a violation of subdivision (j) was a minor at
32 the time of the offense, the violation is punishable by imprisonment
33 in a county jail not exceeding one year, or by a fine not exceeding
34 two thousand dollars (\$2,000), or by both that fine and
35 imprisonment.

36 ~~(m) (1) If a crime is committed in violation of subdivision (b)~~
37 ~~and the person who was solicited was a minor at the time of the~~
38 ~~offense, and if the defendant knew or should have known that the~~
39 ~~person who was solicited was a minor at the time of the offense,~~
40 ~~the violation is punishable by imprisonment in a county jail for~~

1 not less than two days and not more than one year, or by a fine not
2 exceeding ten thousand dollars (\$10,000), or by both that fine and
3 imprisonment.

4 (2) ~~The court may, in unusual cases, when the interests of justice~~
5 ~~are best served, reduce or eliminate the mandatory two days of~~
6 ~~imprisonment in a county jail required by this subdivision. If the~~
7 ~~court reduces or eliminates the mandatory two days' imprisonment,~~
8 ~~the court shall specify the reason on the record.~~

9 *SEC. 1.4. Section 647 of the Penal Code is amended to read:*

10 647. Except as provided in *paragraph (5) of subdivision (b)*
11 *and subdivision (l)*, every person who commits any of the following
12 acts is guilty of disorderly conduct, a misdemeanor:

13 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
14 *engages in lewd or dissolute conduct in any public place or in any*
15 *place open to the public or exposed to public view.*

16 (b) (1) *An individual who solicits, or who agrees to engage in,*
17 *or who engages in, any act of prostitution with the intent to receive*
18 *compensation, money, or anything of value from another person.*
19 *An individual agrees to engage in an act of prostitution when, with*
20 *specific intent to so engage, he or she manifests an acceptance of*
21 *an offer or solicitation by another person to so engage, regardless*
22 *of whether the offer or solicitation was made by a person who also*
23 *possessed the specific intent to engage in an act of prostitution.*

24 (2) *An individual who solicits, or who agrees to engage in, or*
25 *who engages in, any act of prostitution with another person who*
26 *is 18 years of age or older in exchange for the individual providing*
27 *compensation, money, or anything of value to the other person.*
28 *An individual agrees to engage in an act of prostitution when, with*
29 *specific intent to so engage, he or she manifests an acceptance of*
30 *an offer or solicitation by another person who is 18 years of age*
31 *or older to so engage, regardless of whether the offer or solicitation*
32 *was made by a person who also possessed the specific intent to*
33 *engage in an act of prostitution.*

34 (3) *An individual who solicits, or who agrees to engage in, or*
35 *who engages in, any act of prostitution with another person who*
36 *is a minor in exchange for the individual providing compensation,*
37 *money, or anything of value to the minor. An individual agrees to*
38 *engage in an act of prostitution when, with specific intent to so*
39 *engage, he or she manifests an acceptance of an offer or*
40 *solicitation by someone who is a minor to so engage, regardless*

1 *of whether the offer or solicitation was made by a minor who also*
2 *possessed the specific intent to engage in an act of prostitution.*

3 ~~(b) Who solicits or who agrees to engage in or who engages in~~
4 ~~any act of prostitution. A person agrees to engage in an act of~~
5 ~~prostitution when, with specific intent to so engage, he or she~~
6 ~~manifests an~~

7 *(4) A manifestation of acceptance of an offer or solicitation to*
8 *so engage, regardless of whether the offer or solicitation was made*
9 *by a person who also possessed the specific intent to engage in*
10 *prostitution. No agreement to engage in an act of prostitution shall*
11 *does not constitute a violation of this subdivision unless some act,*
12 *in addition to the agreement, manifestation of acceptance, is done*
13 *within this state in furtherance of the commission of an the act of*
14 *prostitution by the person agreeing manifesting an acceptance of*
15 *an offer or solicitation to engage in that act. As used in this*
16 *subdivision, “prostitution” includes any lewd act between persons*
17 *for money or other consideration.*

18 *(5) Notwithstanding paragraphs (1) to (3), inclusive, this*
19 *subdivision does not apply to a child under 18 years of age who*
20 *is alleged to have engaged in conduct to receive money or other*
21 *consideration that would, if committed by an adult, violate this*
22 *subdivision. A commercially exploited child under this paragraph*
23 *may be adjudged a dependent child of the court pursuant to*
24 *paragraph (2) of subdivision (b) of Section 300 of the Welfare and*
25 *Institutions Code and may be taken into temporary custody*
26 *pursuant to subdivision (a) of Section 305 of the Welfare and*
27 *Institutions Code, if the conditions allowing temporary custody*
28 *without warrant are met.*

29 *(c) Who accosts other persons in any public place or in any*
30 *place open to the public for the purpose of begging or soliciting*
31 *alms.*

32 *(d) Who loiters in or about any toilet open to the public for the*
33 *purpose of engaging in or soliciting any lewd or lascivious or any*
34 *unlawful act.*

35 *(e) Who lodges in any building, structure, vehicle, or place,*
36 *whether public or private, without the permission of the owner or*
37 *person entitled to the possession or in control of it.*

38 *(f) Who is found in any public place under the influence of*
39 *intoxicating liquor, any drug, controlled substance, toluene, or any*
40 *combination of any intoxicating liquor, drug, controlled substance,*

1 or toluene, in a condition that he or she is unable to exercise care
2 for his or her own safety or the safety of others, or by reason of
3 his or her being under the influence of intoxicating liquor, any
4 drug, controlled substance, toluene, or any combination of any
5 intoxicating liquor, drug, or toluene, interferes with or obstructs
6 or prevents the free use of any street, sidewalk, or other public
7 way.

8 (g) ~~When~~ *If* a person has violated subdivision (f), a peace officer,
9 if he or she is reasonably able to do so, shall place the person, or
10 cause him or her to be placed, in civil protective custody. The
11 person shall be taken to a facility, designated pursuant to Section
12 5170 of the Welfare and Institutions Code, for the 72-hour
13 treatment and evaluation of inebriates. A peace officer may place
14 a person in civil protective custody with that kind and degree of
15 force ~~which~~ *that* would be lawful were he or she effecting an arrest
16 for a misdemeanor without a warrant. A person who has been
17 placed in civil protective custody shall not thereafter be subject to
18 any criminal prosecution or juvenile court proceeding based on
19 the facts giving rise to this placement. This subdivision ~~shall~~ *does*
20 not apply to the following persons:

21 (1) ~~Any~~ A person who is under the influence of any drug, or
22 under the combined influence of intoxicating liquor and any drug.

23 (2) ~~Any~~ A person who a peace officer has probable cause to
24 believe has committed any felony, or who has committed any
25 misdemeanor in addition to subdivision (f).

26 (3) ~~Any~~ A person who a peace officer in good faith believes
27 will attempt escape or will be unreasonably difficult for medical
28 personnel to control.

29 (h) Who loiters, prowls, or wanders upon the private property
30 of another, at any time, without visible or lawful business with the
31 owner or occupant. As used in this subdivision, “loiter” means to
32 delay or linger without a lawful purpose for being on the property
33 and for the purpose of committing a crime as opportunity may be
34 discovered.

35 (i) Who, while loitering, prowling, or wandering upon the private
36 property of another, at any time, peeks in the door or window of
37 any inhabited building or structure, without visible or lawful
38 business with the owner or occupant.

39 (j) (1) ~~Any~~ A person who looks through a hole or opening, into,
40 or otherwise views, by means of any instrumentality, including,

1 but not limited to, a periscope, telescope, binoculars, camera,
2 motion picture camera, camcorder, or mobile phone, the interior
3 of a bedroom, bathroom, changing room, fitting room, dressing
4 room, or tanning booth, or the interior of any other area in which
5 the occupant has a reasonable expectation of privacy, with the
6 intent to invade the privacy of a person or persons inside. This
7 subdivision ~~shall~~ *does* not apply to those areas of a private business
8 used to count currency or other negotiable instruments.

9 (2) ~~Any~~ A person who uses a concealed camcorder, motion
10 picture camera, or photographic camera of any type, to secretly
11 videotape, film, photograph, or record by electronic means, another,
12 identifiable person under or through the clothing being worn by
13 that other person, for the purpose of viewing the body of, or the
14 undergarments worn by, that other person, without the consent or
15 knowledge of that other person, with the intent to arouse, appeal
16 to, or gratify the lust, passions, or sexual desires of that person and
17 invade the privacy of that other person, under circumstances in
18 which the other person has a reasonable expectation of privacy.

19 (3) (A) ~~Any~~ A person who uses a concealed camcorder, motion
20 picture camera, or photographic camera of any type, to secretly
21 videotape, film, photograph, or record by electronic means, another,
22 identifiable person who may be in a state of full or partial undress,
23 for the purpose of viewing the body of, or the undergarments worn
24 by, that other person, without the consent or knowledge of that
25 other person, in the interior of a bedroom, bathroom, changing
26 room, fitting room, dressing room, or tanning booth, or the interior
27 of any other area in which that other person has a reasonable
28 expectation of privacy, with the intent to invade the privacy of that
29 other person.

30 (B) Neither of the following is a defense to the crime specified
31 in this paragraph:

32 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
33 employer, employee, or business partner or associate of the victim,
34 or an agent of any of these.

35 (ii) The victim was not in a state of full or partial undress.

36 (4) (A) ~~Any~~ A person who intentionally distributes the image
37 of the intimate body part or parts of another identifiable person,
38 or an image of the person depicted engaged in an act of sexual
39 intercourse, sodomy, oral copulation, sexual penetration, or an
40 image of masturbation by the person depicted or in which the

1 person depicted participates, under circumstances in which the
2 persons agree or understand that the image shall remain private,
3 the person distributing the image knows or should know that
4 distribution of the image will cause serious emotional distress, and
5 the person depicted suffers that distress.

6 (B) A person intentionally distributes an image described in
7 subparagraph (A) when he or she personally distributes the image,
8 or arranges, specifically requests, or intentionally causes another
9 person to distribute that image.

10 (C) As used in this paragraph, “intimate body part” means any
11 portion of the genitals, the anus and in the case of a female, also
12 includes any portion of the breasts below the top of the areola, that
13 is either uncovered or clearly visible through clothing.

14 (D) It shall not be a violation of this paragraph to distribute an
15 image described in subparagraph (A) if any of the following
16 applies:

17 (i) The distribution is made in the course of reporting an
18 unlawful activity.

19 (ii) The distribution is made in compliance with a subpoena or
20 other court order for use in a legal proceeding.

21 (iii) The distribution is made in the course of a lawful public
22 proceeding.

23 (5) This subdivision ~~shall~~ *does* not preclude punishment under
24 any section of law providing for greater punishment.

25 ~~(k) In any accusatory pleading charging a violation of~~
26 ~~subdivision (b), if the defendant has been once previously convicted~~
27 ~~of a violation of that subdivision, the previous conviction shall be~~
28 ~~charged in the accusatory pleading. If the previous conviction is~~
29 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
30 ~~a court trial, or is admitted by the defendant, the defendant shall~~
31 ~~be imprisoned in a county jail for a period of not less than 45 days~~
32 ~~and shall not be eligible for release upon completion of sentence,~~
33 ~~on probation, on parole, on work furlough or work release, or on~~
34 ~~any other basis until he or she has served a period of not less than~~
35 ~~45 days in a county jail. In all cases in which probation is granted,~~
36 ~~the court shall require as a condition thereof that the person be~~
37 ~~confined in a county jail for at least 45 days. In no event does the~~
38 ~~court have the power to absolve a person who violates this~~
39 ~~subdivision from the obligation of spending at least 45 days in~~
40 ~~confinement in a county jail.~~

1 ~~In any accusatory pleading charging a violation of subdivision~~
2 ~~(b), if the defendant has been previously convicted two or more~~
3 ~~times of a violation of that subdivision, each of these previous~~
4 ~~convictions shall be charged in the accusatory pleading. If two or~~
5 ~~more of these previous convictions are found to be true by the jury,~~
6 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
7 ~~by the defendant, the defendant shall be imprisoned in a county~~
8 ~~jail for a period of not less than 90 days and shall not be eligible~~
9 ~~for release upon completion of sentence, on probation, on parole,~~
10 ~~on work furlough or work release, or on any other basis until he~~
11 ~~or she has served a period of not less than 90 days in a county jail.~~
12 ~~In all cases in which probation is granted, the court shall require~~
13 ~~as a condition thereof that the person be confined in a county jail~~
14 ~~for at least 90 days. In no event does the court have the power to~~
15 ~~absolve a person who violates this subdivision from the obligation~~
16 ~~of spending at least 90 days in confinement in a county jail.~~

17 ~~In~~

18 *(k)* In addition to any punishment prescribed by this section, a
19 court may suspend, for not more than 30 days, the privilege of the
20 person to operate a motor vehicle pursuant to Section 13201.5 of
21 the Vehicle Code for any violation of subdivision (b) that was
22 committed within 1,000 feet of a private residence and with the
23 use of a vehicle. In lieu of the suspension, the court may order a
24 person's privilege to operate a motor vehicle restricted, for not
25 more than six months, to necessary travel to and from the person's
26 place of employment or education. If driving a motor vehicle is
27 necessary to perform the duties of the person's employment, the
28 court may also allow the person to drive in that person's scope of
29 employment.

30 *(l)* (1) A second or subsequent violation of subdivision (j) is
31 punishable by imprisonment in a county jail not exceeding one
32 year, or by a fine not exceeding two thousand dollars (\$2,000), or
33 by both that fine and imprisonment.

34 (2) If the victim of a violation of subdivision (j) was a minor at
35 the time of the offense, the violation is punishable by imprisonment
36 in a county jail not exceeding one year, or by a fine not exceeding
37 two thousand dollars (\$2,000), or by both that fine and
38 imprisonment.

39 *(m)* (1) If a crime is committed in violation of subdivision (b)
40 and the person who was solicited was a minor at the time of the

1 offense, and if the defendant knew or should have known that the
2 person who was solicited was a minor at the time of the offense,
3 the violation is punishable by imprisonment in a county jail for
4 not less than two days and not more than one year, or by a fine not
5 exceeding ten thousand dollars (\$10,000), or by both that fine and
6 imprisonment.

7 (2) The court may, in unusual cases, when the interests of justice
8 are best served, reduce or eliminate the mandatory two days of
9 imprisonment in a county jail required by this subdivision. If the
10 court reduces or eliminates the mandatory two days' imprisonment,
11 the court shall specify the reason on the record.

12 *SEC. 1.5. Section 647 of the Penal Code is amended to read:*

13 647. Except as provided in subdivision (1), ~~every~~ a person who
14 commits any of the following acts is guilty of disorderly conduct,
15 a misdemeanor:

16 (a) ~~Who~~ An individual who solicits anyone to engage in or who
17 engages in lewd or dissolute conduct in any public place or in any
18 place open to the public or exposed to public view.

19 (b) (1) An individual who solicits, or who agrees to engage in,
20 or who engages in, any act of prostitution with the intent to receive
21 compensation, money, or anything of value from another person.
22 An individual agrees to engage in an act of prostitution when, with
23 specific intent to so engage, he or she manifests an acceptance of
24 an offer or solicitation by another person to so engage, regardless
25 of whether the offer or solicitation was made by a person who also
26 possessed the specific intent to engage in an act of prostitution.

27 (2) An individual who solicits, or who agrees to engage in, or
28 who engages in, any act of prostitution with another person who
29 is 18 years of age or older in exchange for the individual providing
30 compensation, money, or anything of value to the other person.
31 An individual agrees to engage in an act of prostitution when, with
32 specific intent to so engage, he or she manifests an acceptance of
33 an offer or solicitation by another person who is 18 years of age
34 or older to so engage, regardless of whether the offer or solicitation
35 was made by a person who also possessed the specific intent to
36 engage in an act of prostitution.

37 (3) An individual who solicits, or who agrees to engage in, or
38 who engages in, any act of prostitution with another person who
39 is a minor in exchange for the individual providing compensation,
40 money, or anything of value to the minor. An individual agrees to

1 *engage in an act of prostitution when, with specific intent to so*
2 *engage, he or she manifests an acceptance of an offer or*
3 *solicitation by someone who is a minor to so engage, regardless*
4 *of whether the offer or solicitation was made by a minor who also*
5 *possessed the specific intent to engage in an act of prostitution.*

6 ~~(b) Who solicits or who agrees to engage in or who engages in~~
7 ~~any act of prostitution. A person agrees to engage in an act of~~
8 ~~prostitution when, with specific intent to so engage, he or she~~
9 ~~manifests an~~

10 (4) *A manifestation of acceptance of an offer or solicitation to*
11 *so engage, regardless of whether the offer or solicitation was made*
12 *by a person who also possessed the specific intent to engage in*
13 *prostitution. No agreement to engage in an act of prostitution shall*
14 *does not constitute a violation of this subdivision unless some act,*
15 *in addition to the agreement, manifestation of acceptance, is done*
16 *within this state in furtherance of the commission of an the act of*
17 *prostitution by the person agreeing manifesting an acceptance of*
18 *an offer or solicitation to engage in that act. As used in this*
19 *subdivision, “prostitution” includes any lewd act between persons*
20 *for money or other consideration.*

21 (5) *Except as provided in paragraph (6) and subdivision (k), a*
22 *violation of paragraph (2) or (3) is punishable by imprisonment*
23 *in a county jail for not less than 72 hours and not more than six*
24 *months and by a fine of not less than two hundred fifty dollars*
25 *(\$250) but not exceeding one thousand dollars (\$1,000). Upon a*
26 *violation of paragraph (2) or (3), a person is not eligible for*
27 *release upon completion of sentence, on probation, on parole, on*
28 *work furlough or work release, or on any other basis until he or*
29 *she has served a period of not less than 24 continuous hours in a*
30 *county jail. In all cases in which probation is granted, the court*
31 *shall require as a condition of probation that the person be*
32 *confined in a county jail for at least 24 hours. The court shall*
33 *order that a person punished under this paragraph, who is to be*
34 *punished by imprisonment in the county jail, be imprisoned on*
35 *days other than days of regular employment of the person, as*
36 *determined by the court. If the court determines that 24 hours of*
37 *continuous imprisonment would interfere with the person’s work*
38 *schedule, the court shall allow the person to serve the*
39 *imprisonment whenever the person is normally scheduled for time*
40 *off from work. The court may make this determination based upon*

1 *a representation from the defendant's attorney or upon an affidavit*
2 *or testimony from the defendant.*

3 *(6) If a defendant violates paragraph (3) and knew or should*
4 *have known that the person who was solicited was a minor at the*
5 *time of the offense, or if a defendant violates paragraph (2) and*
6 *the person who was solicited was a person posing as a minor and*
7 *the defendant had specific intent to solicit a minor, the violation*
8 *is punishable by imprisonment in a county jail for not less than*
9 *72 hours and not more than one year and by a fine not less than*
10 *one thousand dollars (\$1,000) but not exceeding ten thousand*
11 *dollars (\$10,000). Upon a violation of this paragraph, a person*
12 *is not eligible for release upon completion of sentence, on*
13 *probation, on parole, on work furlough or work release, or on any*
14 *other basis until he or she has served a period of not less than 48*
15 *continuous hours in a county jail. In all cases in which probation*
16 *is granted, the court shall require as a condition of probation that*
17 *the person be confined in a county jail for at least 48 hours. The*
18 *court shall order that a person punished under this paragraph,*
19 *who is to be punished by imprisonment in the county jail, be*
20 *imprisoned on days other than days of regular employment of the*
21 *person, as determined by the court. If the court determines that*
22 *48 hours of continuous imprisonment would interfere with the*
23 *person's work schedule, the court shall allow the person to serve*
24 *the imprisonment whenever the person is normally scheduled for*
25 *time off from work. The court may make this determination based*
26 *upon a representation from the defendant's attorney or upon an*
27 *affidavit or testimony from the defendant.*

28 *(7) This subdivision does not prohibit prosecution under any*
29 *other law.*

30 *(c) Who accosts other persons in any public place or in any*
31 *place open to the public for the purpose of begging or soliciting*
32 *alms.*

33 *(d) Who loiters in or about any toilet open to the public for the*
34 *purpose of engaging in or soliciting any lewd or lascivious or any*
35 *unlawful act.*

36 *(e) Who lodges in any building, structure, vehicle, or place,*
37 *whether public or private, without the permission of the owner or*
38 *person entitled to the possession or in control of it.*

39 *(f) Who is found in any public place under the influence of*
40 *intoxicating liquor, any drug, controlled substance, toluene, or any*

1 combination of any intoxicating liquor, drug, controlled substance,
2 or toluene, in a condition that he or she is unable to exercise care
3 for his or her own safety or the safety of others, or by reason of
4 his or her being under the influence of intoxicating liquor, any
5 drug, controlled substance, toluene, or any combination of any
6 intoxicating liquor, drug, or toluene, interferes with or obstructs
7 or prevents the free use of any street, sidewalk, or other public
8 way.

9 (g) ~~When~~ If a person has violated subdivision (f), a peace officer,
10 if he or she is reasonably able to do so, shall place the person, or
11 cause him or her to be placed, in civil protective custody. The
12 person shall be taken to a facility, designated pursuant to Section
13 5170 of the Welfare and Institutions Code, for the 72-hour
14 treatment and evaluation of inebriates. A peace officer may place
15 a person in civil protective custody with that kind and degree of
16 force ~~which~~ that would be lawful were he or she effecting an arrest
17 for a misdemeanor without a warrant. A person who has been
18 placed in civil protective custody shall not thereafter be subject to
19 any criminal prosecution or juvenile court proceeding based on
20 the facts giving rise to this placement. This subdivision ~~shall~~ does
21 not apply to the following persons:

22 (1) ~~Any~~ A person who is under the influence of any drug, or
23 under the combined influence of intoxicating liquor and any drug.

24 (2) ~~Any~~ A person who a peace officer has probable cause to
25 believe has committed any felony, or who has committed any
26 misdemeanor in addition to subdivision (f).

27 (3) ~~Any~~ A person who a peace officer in good faith believes
28 will attempt escape or will be unreasonably difficult for medical
29 personnel to control.

30 (h) Who loiters, prowls, or wanders upon the private property
31 of another, at any time, without visible or lawful business with the
32 owner or occupant. As used in this subdivision, “loiter” means to
33 delay or linger without a lawful purpose for being on the property
34 and for the purpose of committing a crime as opportunity may be
35 discovered.

36 (i) Who, while loitering, prowling, or wandering upon the private
37 property of another, at any time, peeks in the door or window of
38 any inhabited building or structure, without visible or lawful
39 business with the owner or occupant.

1 (j) (1) ~~Any~~A person who looks through a hole or opening, into,
2 or otherwise views, by means of any instrumentality, including,
3 but not limited to, a periscope, telescope, binoculars, camera,
4 motion picture camera, camcorder, or mobile phone, the interior
5 of a bedroom, bathroom, changing room, fitting room, dressing
6 room, or tanning booth, or the interior of any other area in which
7 the occupant has a reasonable expectation of privacy, with the
8 intent to invade the privacy of a person or persons inside. This
9 subdivision ~~shall~~ *does* not apply to those areas of a private business
10 used to count currency or other negotiable instruments.

11 (2) ~~Any~~A person who uses a concealed camcorder, motion
12 picture camera, or photographic camera of any type, to secretly
13 videotape, film, photograph, or record by electronic means, another,
14 identifiable person under or through the clothing being worn by
15 that other person, for the purpose of viewing the body of, or the
16 undergarments worn by, that other person, without the consent or
17 knowledge of that other person, with the intent to arouse, appeal
18 to, or gratify the lust, passions, or sexual desires of that person and
19 invade the privacy of that other person, under circumstances in
20 which the other person has a reasonable expectation of privacy.

21 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion
22 picture camera, or photographic camera of any type, to secretly
23 videotape, film, photograph, or record by electronic means, another,
24 identifiable person who may be in a state of full or partial undress,
25 for the purpose of viewing the body of, or the undergarments worn
26 by, that other person, without the consent or knowledge of that
27 other person, in the interior of a bedroom, bathroom, changing
28 room, fitting room, dressing room, or tanning booth, or the interior
29 of any other area in which that other person has a reasonable
30 expectation of privacy, with the intent to invade the privacy of that
31 other person.

32 (B) Neither of the following is a defense to the crime specified
33 in this paragraph:

34 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
35 employer, employee, or business partner or associate of the victim,
36 or an agent of any of these.

37 (ii) The victim was not in a state of full or partial undress.

38 (4) (A) ~~Any~~A person who intentionally distributes the image
39 of the intimate body part or parts of another identifiable person,
40 or an image of the person depicted engaged in an act of sexual

1 intercourse, sodomy, oral copulation, sexual penetration, or an
2 image of masturbation by the person depicted or in which the
3 person depicted participates, under circumstances in which the
4 persons agree or understand that the image shall remain private,
5 the person distributing the image knows or should know that
6 distribution of the image will cause serious emotional distress, and
7 the person depicted suffers that distress.

8 (B) A person intentionally distributes an image described in
9 subparagraph (A) when he or she personally distributes the image,
10 or arranges, specifically requests, or intentionally causes another
11 person to distribute that image.

12 (C) As used in this paragraph, “intimate body part” means any
13 portion of the genitals, the anus and in the case of a female, also
14 includes any portion of the breasts below the top of the areola, that
15 is either uncovered or clearly visible through clothing.

16 (D) It shall not be a violation of this paragraph to distribute an
17 image described in subparagraph (A) if any of the following
18 applies:

19 (i) The distribution is made in the course of reporting an
20 unlawful activity.

21 (ii) The distribution is made in compliance with a subpoena or
22 other court order for use in a legal proceeding.

23 (iii) The distribution is made in the course of a lawful public
24 proceeding.

25 (5) This subdivision ~~shall~~ *does* not preclude punishment under
26 any section of law providing for greater punishment.

27 ~~(k) In any accusatory pleading charging a violation of~~
28 ~~subdivision (b), if the defendant has been once previously convicted~~
29 ~~of a violation of that subdivision, the previous conviction shall be~~
30 ~~charged in the accusatory pleading. If the previous conviction is~~
31 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
32 ~~a court trial, or is admitted by the defendant, the defendant shall~~
33 ~~be imprisoned in a county jail for a period of not less than 45 days~~
34 ~~and shall not be eligible for release upon completion of sentence,~~
35 ~~on probation, on parole, on work furlough or work release, or on~~
36 ~~any other basis until he or she has served a period of not less than~~
37 ~~45 days in a county jail. In all cases in which probation is granted,~~
38 ~~the court shall require as a condition thereof that the person be~~
39 ~~confined in a county jail for at least 45 days. In no event does the~~
40 ~~court have the power to absolve a person who violates this~~

1 ~~subdivision from the obligation of spending at least 45 days in~~
2 ~~confinement in a county jail.~~

3 ~~In any accusatory pleading charging a violation of subdivision~~
4 ~~(b), if the defendant has been previously convicted two or more~~
5 ~~times of a violation of that subdivision, each of these previous~~
6 ~~convictions shall be charged in the accusatory pleading. If two or~~
7 ~~more of these previous convictions are found to be true by the jury,~~
8 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
9 ~~by the defendant, the defendant shall be imprisoned in a county~~
10 ~~jail for a period of not less than 90 days and shall not be eligible~~
11 ~~for release upon completion of sentence, on probation, on parole,~~
12 ~~on work furlough or work release, or on any other basis until he~~
13 ~~or she has served a period of not less than 90 days in a county jail.~~
14 ~~In all cases in which probation is granted, the court shall require~~
15 ~~as a condition thereof that the person be confined in a county jail~~
16 ~~for at least 90 days. In no event does the court have the power to~~
17 ~~absolve a person who violates this subdivision from the obligation~~
18 ~~of spending at least 90 days in confinement in a county jail.~~

19 ~~In~~

20 *(k)* ~~In addition to any punishment prescribed by this section, a~~
21 ~~court may suspend, for not more than 30 days, the privilege of the~~
22 ~~person to operate a motor vehicle pursuant to Section 13201.5 of~~
23 ~~the Vehicle Code for any violation of subdivision (b) that was~~
24 ~~committed within 1,000 feet of a private residence and with the~~
25 ~~use of a vehicle. In lieu of the suspension, the court may order a~~
26 ~~person's privilege to operate a motor vehicle restricted, for not~~
27 ~~more than six months, to necessary travel to and from the person's~~
28 ~~place of employment or education. If driving a motor vehicle is~~
29 ~~necessary to perform the duties of the person's employment, the~~
30 ~~court may also allow the person to drive in that person's scope of~~
31 ~~employment.~~

32 *(l)* ~~(1) A second or subsequent violation of subdivision (j) is~~
33 ~~punishable by imprisonment in a county jail not exceeding one~~
34 ~~year, or by a fine not exceeding two thousand dollars (\$2,000), or~~
35 ~~by both that fine and imprisonment.~~

36 ~~(2) If the victim of a violation of subdivision (j) was a minor at~~
37 ~~the time of the offense, the violation is punishable by imprisonment~~
38 ~~in a county jail not exceeding one year, or by a fine not exceeding~~
39 ~~two thousand dollars (\$2,000), or by both that fine and~~
40 ~~imprisonment.~~

~~(m) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.~~

~~(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.~~

SEC. 1.6. Section 647 of the Penal Code is amended to read:

647. Except as provided in paragraph (8) of subdivision (b) and subdivision (l), every a person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) ~~Who~~ An individual who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) (1) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with the intent to receive compensation, money, or anything of value from another person. An individual agrees to engage in an act of prostitution when, with specified intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

(2) An individual who solicits, or who agrees to engage in, or who engages in, any act of prostitution with another person who is 18 years of age or older in exchange for the individual providing compensation, money, or anything of value to the other person. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation by another person who is 18 years of age or older to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in an act of prostitution.

1 (3) *An individual who solicits, or who agrees to engage in, or*
2 *who engages in, any act of prostitution with another person who*
3 *is a minor in exchange for the individual providing compensation,*
4 *money, or anything of value to the minor. An individual agrees to*
5 *engage in an act of prostitution when, with specific intent to so*
6 *engage, he or she manifests an acceptance of an offer or*
7 *solicitation by someone who is a minor to so engage, regardless*
8 *of whether the offer or solicitation was made by a minor who also*
9 *possessed the specific intent to engage in an act of prostitution.*

10 ~~(b) Who solicits or who agrees to engage in or who engages in~~
11 ~~any act of prostitution. A person agrees to engage in an act of~~
12 ~~prostitution when, with specific intent to so engage, he or she~~
13 ~~manifests an acceptance of an offer or solicitation to so engage,~~
14 ~~regardless of whether the offer or solicitation was made by a person~~
15 ~~who also possessed the specific intent to engage in prostitution.~~
16 ~~No agreement to engage in an act of prostitution shall constitute~~
17 ~~a violation of this subdivision unless some act, in addition to the~~
18 ~~agreement, is done within this state in furtherance of the~~
19 ~~commission of an act of prostitution by the person agreeing to~~
20 ~~engage in that act.~~

21 (4) *A manifestation of acceptance of an offer or solicitation to*
22 *engage in an act of prostitution shall not constitute a violation of*
23 *this subdivision unless some act, in addition to the manifestation*
24 *of acceptance, is done within this state in furtherance of the*
25 *commission of the act of prostitution by the person manifesting an*
26 *acceptance of an offer or solicitation to engage in that act. As*
27 *used in this subdivision, “prostitution” includes any lewd act*
28 *between persons for money or other consideration.*

29 (5) *Except as provided in paragraph (6) and subdivision (k), a*
30 *violation of paragraph (2) or (3) is punishable by imprisonment*
31 *in a county jail for not less than 72 hours and not more than six*
32 *months and by a fine of not less than two hundred fifty dollars*
33 *(\$250) but not exceeding one thousand dollars (\$1,000). Upon a*
34 *violation of paragraph (2) or (3), a person is not eligible for*
35 *release upon completion of sentence, on probation, on parole, on*
36 *work furlough or work release, or on any other basis until he or*
37 *she has served a period of not less than 24 continuous hours in a*
38 *county jail. In all cases in which probation is granted, the court*
39 *shall require as a condition of probation that the person be*
40 *confined in a county jail for at least 24 hours. The court shall*

1 order that a person punished under this paragraph, who is to be
2 punished by imprisonment in the county jail, be imprisoned on
3 days other than days of regular employment of the person, as
4 determined by the court. If the court determines that 24 hours of
5 continuous imprisonment would interfere with the person's work
6 schedule, the court shall allow the person to serve the
7 imprisonment whenever the person is normally scheduled for time
8 off from work. The court may make this determination based upon
9 a representation from the defendant's attorney or upon an affidavit
10 or testimony from the defendant.

11 (6) If a defendant violates paragraph (3) and knew or should
12 have known that the person who was solicited was a minor at the
13 time of the offense, or if a defendant violates paragraph (2) and
14 the person who was solicited was a person posing as a minor and
15 the defendant had specific intent to solicit a minor, the violation
16 is punishable by imprisonment in a county jail for not less than
17 72 hours and not more than one year and by a fine not less than
18 one thousand dollars (\$1,000) but not exceeding ten thousand
19 dollars (\$10,000). Upon a violation of this paragraph, a person
20 is not eligible for release upon completion of sentence, on
21 probation, on parole, on work furlough or work release, or on any
22 other basis until he or she has served a period of not less than 48
23 continuous hours in a county jail. In all cases in which probation
24 is granted, the court shall require as a condition of probation that
25 the person be confined in a county jail for at least 48 hours. The
26 court shall order that a person punished under this paragraph,
27 who is to be punished by imprisonment in the county jail, be
28 imprisoned on days other than days of regular employment of the
29 person, as determined by the court. If the court determines that
30 48 hours of continuous imprisonment would interfere with the
31 person's work schedule, the court shall allow the person to serve
32 the imprisonment whenever the person is normally scheduled for
33 time off from work. The court may make this determination based
34 upon a representation from the defendant's attorney or upon an
35 affidavit or testimony from the defendant.

36 (7) This subdivision does not prohibit prosecution under any
37 other law.

38 (8) Notwithstanding paragraphs (1) to (3), inclusive, this
39 subdivision does not apply to a child under 18 years of age who
40 is alleged to have engaged in conduct to receive money or other

1 *consideration that would, if committed by an adult, violate this*
2 *subdivision. A commercially exploited child under this paragraph*
3 *may be adjudged a dependent child of the court pursuant to*
4 *paragraph (2) of subdivision (b) of Section 300 of the Welfare and*
5 *Institutions Code and may be taken into temporary custody*
6 *pursuant to subdivision (a) of Section 305 of the Welfare and*
7 *Institutions Code, if the conditions allowing temporary custody*
8 *without warrant are met.*

9 (c) Who accosts other persons in any public place or in any
10 place open to the public for the purpose of begging or soliciting
11 alms.

12 (d) Who loiters in or about any toilet open to the public for the
13 purpose of engaging in or soliciting any lewd or lascivious or any
14 unlawful act.

15 (e) Who lodges in any building, structure, vehicle, or place,
16 whether public or private, without the permission of the owner or
17 person entitled to the possession or in control of it.

18 (f) Who is found in any public place under the influence of
19 intoxicating liquor, any drug, controlled substance, toluene, or any
20 combination of any intoxicating liquor, drug, controlled substance,
21 or toluene, in a condition that he or she is unable to exercise care
22 for his or her own safety or the safety of others, or by reason of
23 his or her being under the influence of intoxicating liquor, any
24 drug, controlled substance, toluene, or any combination of any
25 intoxicating liquor, drug, or toluene, interferes with or obstructs
26 or prevents the free use of any street, sidewalk, or other public
27 way.

28 (g) When a person has violated subdivision (f), a peace officer,
29 if he or she is reasonably able to do so, shall place the person, or
30 cause him or her to be placed, in civil protective custody. The
31 person shall be taken to a facility, designated pursuant to Section
32 5170 of the Welfare and Institutions Code, for the 72-hour
33 treatment and evaluation of inebriates. A peace officer may place
34 a person in civil protective custody with that kind and degree of
35 force which would be lawful were he or she effecting an arrest for
36 a misdemeanor without a warrant. A person who has been placed
37 in civil protective custody shall not thereafter be subject to any
38 criminal prosecution or juvenile court proceeding based on the
39 facts giving rise to this placement. This subdivision shall not apply
40 to the following persons:

1 (1) Any person who is under the influence of any drug, or under
2 the combined influence of intoxicating liquor and any drug.

3 (2) Any person who a peace officer has probable cause to believe
4 has committed any felony, or who has committed any misdemeanor
5 in addition to subdivision (f).

6 (3) Any person who a peace officer in good faith believes will
7 attempt escape or will be unreasonably difficult for medical
8 personnel to control.

9 (h) Who loiters, prowls, or wanders upon the private property
10 of another, at any time, without visible or lawful business with the
11 owner or occupant. As used in this subdivision, “loiter” means to
12 delay or linger without a lawful purpose for being on the property
13 and for the purpose of committing a crime as opportunity may be
14 discovered.

15 (i) Who, while loitering, prowling, or wandering upon the private
16 property of another, at any time, peeks in the door or window of
17 any inhabited building or structure, without visible or lawful
18 business with the owner or occupant.

19 (j) (1) Any person who looks through a hole or opening, into,
20 or otherwise views, by means of any instrumentality, including,
21 but not limited to, a periscope, telescope, binoculars, camera,
22 motion picture camera, camcorder, or mobile phone, the interior
23 of a bedroom, bathroom, changing room, fitting room, dressing
24 room, or tanning booth, or the interior of any other area in which
25 the occupant has a reasonable expectation of privacy, with the
26 intent to invade the privacy of a person or persons inside. This
27 subdivision shall not apply to those areas of a private business
28 used to count currency or other negotiable instruments.

29 (2) Any person who uses a concealed camcorder, motion picture
30 camera, or photographic camera of any type, to secretly videotape,
31 film, photograph, or record by electronic means, another,
32 identifiable person under or through the clothing being worn by
33 that other person, for the purpose of viewing the body of, or the
34 undergarments worn by, that other person, without the consent or
35 knowledge of that other person, with the intent to arouse, appeal
36 to, or gratify the lust, passions, or sexual desires of that person and
37 invade the privacy of that other person, under circumstances in
38 which the other person has a reasonable expectation of privacy.

39 (3) (A) Any person who uses a concealed camcorder, motion
40 picture camera, or photographic camera of any type, to secretly

1 videotape, film, photograph, or record by electronic means, another,
2 identifiable person who may be in a state of full or partial undress,
3 for the purpose of viewing the body of, or the undergarments worn
4 by, that other person, without the consent or knowledge of that
5 other person, in the interior of a bedroom, bathroom, changing
6 room, fitting room, dressing room, or tanning booth, or the interior
7 of any other area in which that other person has a reasonable
8 expectation of privacy, with the intent to invade the privacy of that
9 other person.

10 (B) Neither of the following is a defense to the crime specified
11 in this paragraph:

12 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
13 employer, employee, or business partner or associate of the victim,
14 or an agent of any of these.

15 (ii) The victim was not in a state of full or partial undress.

16 (4) (A) Any person who intentionally distributes the image of
17 the intimate body part or parts of another identifiable person, or
18 an image of the person depicted engaged in an act of sexual
19 intercourse, sodomy, oral copulation, sexual penetration, or an
20 image of masturbation by the person depicted or in which the
21 person depicted participates, under circumstances in which the
22 persons agree or understand that the image shall remain private,
23 the person distributing the image knows or should know that
24 distribution of the image will cause serious emotional distress, and
25 the person depicted suffers that distress.

26 (B) A person intentionally distributes an image described in
27 subparagraph (A) when he or she personally distributes the image,
28 or arranges, specifically requests, or intentionally causes another
29 person to distribute that image.

30 (C) As used in this paragraph, “intimate body part” means any
31 portion of the genitals, the anus and in the case of a female, also
32 includes any portion of the breasts below the top of the areola, that
33 is either uncovered or clearly visible through clothing.

34 (D) It shall not be a violation of this paragraph to distribute an
35 image described in subparagraph (A) if any of the following
36 applies:

37 (i) The distribution is made in the course of reporting an
38 unlawful activity.

39 (ii) The distribution is made in compliance with a subpoena or
40 other court order for use in a legal proceeding.

1 (iii) The distribution is made in the course of a lawful public
2 proceeding.

3 (5) This subdivision shall not preclude punishment under any
4 section of law providing for greater punishment.

5 (k) (1) In any accusatory pleading charging a violation of
6 subdivision (b), if the defendant has been once previously convicted
7 of a violation of that subdivision, the previous conviction shall be
8 charged in the accusatory pleading. If the previous conviction is
9 found to be true by the jury, upon a jury trial, or by the court, upon
10 a court trial, or is admitted by the defendant, the defendant shall
11 be imprisoned in a county jail for a period of not less than 45 days
12 and ~~shall not be~~ *is not* eligible for release upon completion of
13 sentence, on probation, on parole, on work furlough or work
14 release, or on any other basis until he or she has served a period
15 of not less than 45 days in a county jail. In all cases in which
16 probation is granted, the court shall require as a condition thereof
17 that the person be confined in a county jail for at least 45 days. ~~In~~
18 ~~no event does the court have the power to~~ *The court shall not*
19 absolve a person who violates this subdivision from the obligation
20 of spending at least 45 days in confinement in a county jail.

21 ~~In~~

22 (2) *In* any accusatory pleading charging a violation of
23 subdivision (b), if the defendant has been previously convicted
24 two or more times of a violation of that subdivision, each of these
25 previous convictions shall be charged in the accusatory pleading.
26 If two or more of these previous convictions are found to be true
27 by the jury, upon a jury trial, or by the court, upon a court trial, or
28 are admitted by the defendant, the defendant shall be imprisoned
29 in a county jail for a period of not less than 90 days and ~~shall~~ *is*
30 ~~not be~~ eligible for release upon completion of sentence, on
31 probation, on parole, on work furlough or work release, or on any
32 other basis until he or she has served a period of not less than 90
33 days in a county jail. In all cases in which probation is granted,
34 the court shall require as a condition thereof that the person be
35 confined in a county jail for at least 90 days. ~~In no event does the~~
36 ~~court~~ *The court shall not* have the power to absolve a person who
37 violates this subdivision from the obligation of spending at least
38 90 days in confinement in a county jail.

39 ~~In~~

1 (3) *In* addition to any punishment prescribed by this section, a
2 court may suspend, for not more than 30 days, the privilege of the
3 person to operate a motor vehicle pursuant to Section 13201.5 of
4 the Vehicle Code for any violation of subdivision (b) that was
5 committed within 1,000 feet of a private residence and with the
6 use of a vehicle. In lieu of the suspension, the court may order a
7 person's privilege to operate a motor vehicle restricted, for not
8 more than six months, to necessary travel to and from the person's
9 place of employment or education. If driving a motor vehicle is
10 necessary to perform the duties of the person's employment, the
11 court may also allow the person to drive in that person's scope of
12 employment.

13 (l) (1) A second or subsequent violation of subdivision (j) is
14 punishable by imprisonment in a county jail not exceeding one
15 year, or by a fine not exceeding two thousand dollars (\$2,000), or
16 by both that fine and imprisonment.

17 (2) If the victim of a violation of subdivision (j) was a minor at
18 the time of the offense, the violation is punishable by imprisonment
19 in a county jail not exceeding one year, or by a fine not exceeding
20 two thousand dollars (\$2,000), or by both that fine and
21 imprisonment.

22 ~~(m) (1) If a crime is committed in violation of subdivision (b)~~
23 ~~and the person who was solicited was a minor at the time of the~~
24 ~~offense, and if the defendant knew or should have known that the~~
25 ~~person who was solicited was a minor at the time of the offense,~~
26 ~~the violation is punishable by imprisonment in a county jail for~~
27 ~~not less than two days and not more than one year, or by a fine not~~
28 ~~exceeding ten thousand dollars (\$10,000), or by both that fine and~~
29 ~~imprisonment.~~

30 ~~(2) The court may, in unusual cases, when the interests of justice~~
31 ~~are best served, reduce or eliminate the mandatory two days of~~
32 ~~imprisonment in a county jail required by this subdivision. If the~~
33 ~~court reduces or eliminates the mandatory two days' imprisonment,~~
34 ~~the court shall specify the reason on the record.~~

35 *SEC. 1.7. Section 647 of the Penal Code is amended to read:*

36 647. Except as provided in *paragraph (8) of subdivision (b)*
37 *and subdivision (l), every a* person who commits any of the
38 following acts is guilty of disorderly conduct, a misdemeanor:

1 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
2 *engages in lewd or dissolute conduct in any public place or in any*
3 *place open to the public or exposed to public view.*

4 (b) (1) *An individual who solicits, or who agrees to engage in,*
5 *or who engages in, any act of prostitution with the intent to receive*
6 *compensation, money, or anything of value from another person.*
7 *An individual agrees to engage in an act of prostitution when, with*
8 *specified intent to so engage, he or she manifests an acceptance*
9 *of an offer or solicitation by another person to so engage,*
10 *regardless of whether the offer or solicitation was made by a*
11 *person who also possessed the specific intent to engage in an act*
12 *of prostitution.*

13 (2) *An individual who solicits, or who agrees to engage in, or*
14 *who engages in, any act of prostitution with another person who*
15 *is 18 years of age or older in exchange for the individual providing*
16 *compensation, money, or anything of value to the other person.*
17 *An individual agrees to engage in an act of prostitution when, with*
18 *specific intent to so engage, he or she manifests an acceptance of*
19 *an offer or solicitation by another person who is 18 years of age*
20 *or older to so engage, regardless of whether the offer or solicitation*
21 *was made by a person who also possessed the specific intent to*
22 *engage in an act of prostitution.*

23 (3) *An individual who solicits, or who agrees to engage in, or*
24 *who engages in, any act of prostitution with another person who*
25 *is a minor in exchange for the individual providing compensation,*
26 *money, or anything of value to the minor. An individual agrees to*
27 *engage in an act of prostitution when, with specific intent to so*
28 *engage, he or she manifests an acceptance of an offer or*
29 *solicitation by someone who is a minor to so engage, regardless*
30 *of whether the offer or solicitation was made by a minor who also*
31 *possessed the specific intent to engage in an act of prostitution.*

32 (b) ~~Who solicits or who agrees to engage in or who engages in~~
33 ~~any act of prostitution. A person agrees to engage in an act of~~
34 ~~prostitution when, with specific intent to so engage, he or she~~
35 ~~manifests an acceptance of an offer or solicitation to so engage,~~
36 ~~regardless of whether the offer or solicitation was made by a person~~
37 ~~who also possessed the specific intent to engage in prostitution.~~
38 ~~No agreement to engage in an act of prostitution shall constitute~~
39 ~~a violation of this subdivision unless some act, in addition to the~~
40 ~~agreement, is done within this state in furtherance of the~~

1 ~~commission of an act of prostitution by the person agreeing to~~
2 ~~engage in that act.~~

3 (4) *A manifestation of acceptance of an offer or solicitation to*
4 *engage in an act of prostitution does not constitute a violation of*
5 *this subdivision unless some act, in addition to the manifestation*
6 *of acceptance, is done within this state in furtherance of the*
7 *commission of the act of prostitution by the person manifesting an*
8 *acceptance of an offer or solicitation to engage in that act. As*
9 *used in this subdivision, “prostitution” includes any lewd act*
10 *between persons for money or other consideration.*

11 (5) *Except as provided in paragraph (6) and subdivision (k), a*
12 *violation of paragraph (2) or (3) is punishable by imprisonment*
13 *in a county jail for not less than 72 hours and not more than six*
14 *months and by a fine of not less than two hundred fifty dollars*
15 *(\$250) but not exceeding one thousand dollars (\$1,000). Upon a*
16 *violation of paragraph (2) or (3), a person is not eligible for*
17 *release upon completion of sentence, on probation, on parole, on*
18 *work furlough or work release, or on any other basis until he or*
19 *she has served a period of not less than 24 continuous hours in a*
20 *county jail. In all cases in which probation is granted, the court*
21 *shall require as a condition of probation that the person be*
22 *confined in a county jail for at least 24 hours. The court shall*
23 *order that a person punished under this paragraph, who is to be*
24 *punished by imprisonment in the county jail, be imprisoned on*
25 *days other than days of regular employment of the person, as*
26 *determined by the court. If the court determines that 24 hours of*
27 *continuous imprisonment would interfere with the person’s work*
28 *schedule, the court shall allow the person to serve the*
29 *imprisonment whenever the person is normally scheduled for time*
30 *off from work. The court may make this determination based upon*
31 *a representation from the defendant’s attorney or upon an affidavit*
32 *or testimony from the defendant.*

33 (6) *If a defendant violates paragraph (3) and knew or should*
34 *have known that the person who was solicited was a minor at the*
35 *time of the offense, or if a defendant violates paragraph (2) and*
36 *the person who was solicited was a person posing as a minor and*
37 *the defendant had specific intent to solicit a minor, the violation*
38 *is punishable by imprisonment in a county jail for not less than*
39 *72 hours and not more than one year and by a fine not less than*
40 *one thousand dollars (\$1,000) but not exceeding ten thousand*

1 dollars (\$10,000). Upon a violation of this paragraph, a person
2 is not eligible for release upon completion of sentence, on
3 probation, on parole, on work furlough or work release, or on any
4 other basis until he or she has served a period of not less than 48
5 continuous hours in a county jail. In all cases in which probation
6 is granted, the court shall require as a condition of probation that
7 the person be confined in a county jail for at least 48 hours. The
8 court shall order that a person punished under this paragraph,
9 who is to be punished by imprisonment in the county jail, be
10 imprisoned on days other than days of regular employment of the
11 person, as determined by the court. If the court determines that
12 48 hours of continuous imprisonment would interfere with the
13 person's work schedule, the court shall allow the person to serve
14 the imprisonment whenever the person is normally scheduled for
15 time off from work. The court may make this determination based
16 upon a representation from the defendant's attorney or upon an
17 affidavit or testimony from the defendant.

18 (7) This subdivision does not prohibit prosecution under any
19 other law.

20 (8) Notwithstanding paragraphs (1) to (3), inclusive, this
21 subdivision does not apply to a child under 18 years of age who
22 is alleged to have engaged in conduct to receive money or other
23 consideration that would, if committed by an adult, violate this
24 subdivision. A commercially exploited child under this paragraph
25 may be adjudged a dependent child of the court pursuant to
26 paragraph (2) of subdivision (b) of Section 300 of the Welfare and
27 Institutions Code and may be taken into temporary custody
28 pursuant to subdivision (a) of Section 305 of the Welfare and
29 Institutions Code, if the conditions allowing temporary custody
30 without warrant are met.

31 (c) Who accosts other persons in any public place or in any
32 place open to the public for the purpose of begging or soliciting
33 alms.

34 (d) Who loiters in or about any toilet open to the public for the
35 purpose of engaging in or soliciting any lewd or lascivious or any
36 unlawful act.

37 (e) Who lodges in any building, structure, vehicle, or place,
38 whether public or private, without the permission of the owner or
39 person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) ~~When~~ If a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force ~~which~~ that would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision ~~shall~~ does not apply to the following persons:

(1) ~~Any~~ A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) ~~Any~~ A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) ~~Any~~ A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of

1 any inhabited building or structure, without visible or lawful
2 business with the owner or occupant.

3 (j) (1) ~~Any~~A person who looks through a hole or opening, into,
4 or otherwise views, by means of any instrumentality, including,
5 but not limited to, a periscope, telescope, binoculars, camera,
6 motion picture camera, camcorder, or mobile phone, the interior
7 of a bedroom, bathroom, changing room, fitting room, dressing
8 room, or tanning booth, or the interior of any other area in which
9 the occupant has a reasonable expectation of privacy, with the
10 intent to invade the privacy of a person or persons inside. This
11 subdivision ~~shall~~ *does* not apply to those areas of a private business
12 used to count currency or other negotiable instruments.

13 (2) ~~Any~~A person who uses a concealed camcorder, motion
14 picture camera, or photographic camera of any type, to secretly
15 videotape, film, photograph, or record by electronic means, another,
16 identifiable person under or through the clothing being worn by
17 that other person, for the purpose of viewing the body of, or the
18 undergarments worn by, that other person, without the consent or
19 knowledge of that other person, with the intent to arouse, appeal
20 to, or gratify the lust, passions, or sexual desires of that person and
21 invade the privacy of that other person, under circumstances in
22 which the other person has a reasonable expectation of privacy.

23 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion
24 picture camera, or photographic camera of any type, to secretly
25 videotape, film, photograph, or record by electronic means, another,
26 identifiable person who may be in a state of full or partial undress,
27 for the purpose of viewing the body of, or the undergarments worn
28 by, that other person, without the consent or knowledge of that
29 other person, in the interior of a bedroom, bathroom, changing
30 room, fitting room, dressing room, or tanning booth, or the interior
31 of any other area in which that other person has a reasonable
32 expectation of privacy, with the intent to invade the privacy of that
33 other person.

34 (B) Neither of the following is a defense to the crime specified
35 in this paragraph:

36 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
37 employer, employee, or business partner or associate of the victim,
38 or an agent of any of these.

39 (ii) The victim was not in a state of full or partial undress.

1 (4) (A) ~~Any~~ A person who intentionally distributes the image
2 of the intimate body part or parts of another identifiable person,
3 or an image of the person depicted engaged in an act of sexual
4 intercourse, sodomy, oral copulation, sexual penetration, or an
5 image of masturbation by the person depicted or in which the
6 person depicted participates, under circumstances in which the
7 persons agree or understand that the image shall remain private,
8 the person distributing the image knows or should know that
9 distribution of the image will cause serious emotional distress, and
10 the person depicted suffers that distress.

11 (B) A person intentionally distributes an image described in
12 subparagraph (A) when he or she personally distributes the image,
13 or arranges, specifically requests, or intentionally causes another
14 person to distribute that image.

15 (C) As used in this paragraph, “intimate body part” means any
16 portion of the genitals, the anus and in the case of a female, also
17 includes any portion of the breasts below the top of the areola, that
18 is either uncovered or clearly visible through clothing.

19 (D) It shall not be a violation of this paragraph to distribute an
20 image described in subparagraph (A) if any of the following
21 applies:

22 (i) The distribution is made in the course of reporting an
23 unlawful activity.

24 (ii) The distribution is made in compliance with a subpoena or
25 other court order for use in a legal proceeding.

26 (iii) The distribution is made in the course of a lawful public
27 proceeding.

28 (5) This subdivision ~~shall~~ *does* not preclude punishment under
29 any section of law providing for greater punishment.

30 ~~(k) In any accusatory pleading charging a violation of~~
31 ~~subdivision (b), if the defendant has been once previously convicted~~
32 ~~of a violation of that subdivision, the previous conviction shall be~~
33 ~~charged in the accusatory pleading. If the previous conviction is~~
34 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
35 ~~a court trial, or is admitted by the defendant, the defendant shall~~
36 ~~be imprisoned in a county jail for a period of not less than 45 days~~
37 ~~and shall not be eligible for release upon completion of sentence,~~
38 ~~on probation, on parole, on work furlough or work release, or on~~
39 ~~any other basis until he or she has served a period of not less than~~
40 ~~45 days in a county jail. In all cases in which probation is granted,~~

1 the court shall require as a condition thereof that the person be
2 confined in a county jail for at least 45 days. In no event does the
3 court have the power to absolve a person who violates this
4 subdivision from the obligation of spending at least 45 days in
5 confinement in a county jail.

6 In any accusatory pleading charging a violation of subdivision
7 (b), if the defendant has been previously convicted two or more
8 times of a violation of that subdivision, each of these previous
9 convictions shall be charged in the accusatory pleading. If two or
10 more of these previous convictions are found to be true by the jury,
11 upon a jury trial, or by the court, upon a court trial, or are admitted
12 by the defendant, the defendant shall be imprisoned in a county
13 jail for a period of not less than 90 days and shall not be eligible
14 for release upon completion of sentence, on probation, on parole,
15 on work furlough or work release, or on any other basis until he
16 or she has served a period of not less than 90 days in a county jail.
17 In all cases in which probation is granted, the court shall require
18 as a condition thereof that the person be confined in a county jail
19 for at least 90 days. In no event does the court have the power to
20 absolve a person who violates this subdivision from the obligation
21 of spending at least 90 days in confinement in a county jail.

22 ~~In~~

23 (k) In addition to any punishment prescribed by this section, a
24 court may suspend, for not more than 30 days, the privilege of the
25 person to operate a motor vehicle pursuant to Section 13201.5 of
26 the Vehicle Code for any violation of subdivision (b) that was
27 committed within 1,000 feet of a private residence and with the
28 use of a vehicle. In lieu of the suspension, the court may order a
29 person's privilege to operate a motor vehicle restricted, for not
30 more than six months, to necessary travel to and from the person's
31 place of employment or education. If driving a motor vehicle is
32 necessary to perform the duties of the person's employment, the
33 court may also allow the person to drive in that person's scope of
34 employment.

35 (l) (1) A second or subsequent violation of subdivision (j) is
36 punishable by imprisonment in a county jail not exceeding one
37 year, or by a fine not exceeding two thousand dollars (\$2,000), or
38 by both that fine and imprisonment.

39 (2) If the victim of a violation of subdivision (j) was a minor at
40 the time of the offense, the violation is punishable by imprisonment

1 in a county jail not exceeding one year, or by a fine not exceeding
2 two thousand dollars (\$2,000), or by both that fine and
3 imprisonment.

4 ~~(m) (1) If a crime is committed in violation of subdivision (b)~~
5 ~~and the person who was solicited was a minor at the time of the~~
6 ~~offense, and if the defendant knew or should have known that the~~
7 ~~person who was solicited was a minor at the time of the offense,~~
8 ~~the violation is punishable by imprisonment in a county jail for~~
9 ~~not less than two days and not more than one year, or by a fine not~~
10 ~~exceeding ten thousand dollars (\$10,000), or by both that fine and~~
11 ~~imprisonment.~~

12 ~~(2) The court may, in unusual cases, when the interests of justice~~
13 ~~are best served, reduce or eliminate the mandatory two days of~~
14 ~~imprisonment in a county jail required by this subdivision. If the~~
15 ~~court reduces or eliminates the mandatory two days' imprisonment,~~
16 ~~the court shall specify the reason on the record.~~

17 *SEC. 2. (a) Section 1.1 of this bill incorporates amendments*
18 *to Section 647 of the Penal Code proposed by both this bill and*
19 *Senate Bill 1129. It shall only become operative if (1) both bills*
20 *are enacted and become effective on or before January 1, 2017,*
21 *(2) each bill amends Section 647 of the Penal Code, (3) Senate*
22 *Bill 1322 and Assembly Bill 1708 are not enacted or as enacted*
23 *do not amend that section, and (4) this bill is enacted after Senate*
24 *Bill 1129, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7*
25 *of this bill shall not become operative.*

26 *(b) Section 1.2 of this bill incorporates amendments to Section*
27 *647 of the Penal Code proposed by both this bill and Senate Bill*
28 *1322. It shall only become operative if (1) both bills are enacted*
29 *and become effective on or before January 1, 2017, (2) each bill*
30 *amends Section 647 of the Penal Code, (3) Senate Bill 1129 and*
31 *Assembly Bill 1708 are not enacted or as enacted do not amend*
32 *that section, and (4) this bill is enacted after Senate Bill 1322, in*
33 *which case Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill*
34 *shall not become operative.*

35 *(c) Section 1.3 of this bill incorporates amendments to Section*
36 *647 of the Penal Code proposed by both this bill and Assembly*
37 *Bill 1708. It shall only become operative if (1) both bills are*
38 *enacted and become effective on or before January 1, 2017, (2)*
39 *each bill amends Section 647 of the Penal Code, (3) Senate Bill*
40 *1129 and Senate Bill 1322 are not enacted or as enacted do not*

1 *amend that section, and (4) this bill is enacted after Assembly Bill*
2 *1708, in which case Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of*
3 *this bill shall not become operative.*

4 *(d) Section 1.4 of this bill incorporates amendments to Section*
5 *647 of the Penal Code proposed by this bill, Senate Bill 1129, and*
6 *Senate Bill 1322. It shall only become operative if (1) all three*
7 *bills are enacted and become effective on or before January 1,*
8 *2017, (2) all three bills amend Section 647 of the Penal Code, (3)*
9 *Assembly Bill 1708 is not enacted or as enacted does not amend*
10 *that section, and (4) this bill is enacted after Senate Bill 1129 and*
11 *Senate Bill 1322, in which case Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6,*
12 *and 1.7 of this bill shall not become operative.*

13 *(e) Section 1.5 of this bill incorporates amendments to Section*
14 *647 of the Penal Code proposed by this bill, Senate Bill 1129, and*
15 *Assembly Bill 1708. It shall only become operative if (1) all three*
16 *bills are enacted and become effective on or before January 1,*
17 *2017, (2) all three bills amend Section 647 of the Penal Code, (3)*
18 *Senate Bill 1322 is not enacted or as enacted does not amend that*
19 *section, and (4) this bill is enacted after Senate Bill 1129 and*
20 *Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.3, 1.4,*
21 *1.6, and 1.7 of this bill shall not become operative.*

22 *(f) Section 1.6 of this bill incorporates amendments to Section*
23 *647 of the Penal Code proposed by this bill, Senate Bill 1322, and*
24 *Assembly Bill 1708. It shall only become operative if (1) all three*
25 *bills are enacted and become effective on or before January 1,*
26 *2017, (2) all three bills amend Section 647 of the Penal Code, (3)*
27 *Senate Bill 1129 is not enacted or as enacted does not amend that*
28 *section, and (4) this bill is enacted after Senate Bill 1322 and*
29 *Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.3, 1.4,*
30 *1.5, and 1.7 of this bill shall not become operative.*

31 *(g) Section 1.7 of this bill incorporates amendments to Section*
32 *647 of the Penal Code proposed by this bill, Senate Bill 1129,*
33 *Senate Bill 1322, and Assembly Bill 1708. It shall only become*
34 *operative if (1) all four bills are enacted and become effective on*
35 *or before January 1, 2017, (2) all four bills amend Section 647 of*
36 *the Penal Code, and (3) this bill is enacted after Senate Bill 1129,*
37 *Senate Bill 1322, and Assembly Bill 1708, in which case Sections*

1 *1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become*
2 *operative.*

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